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Schedule of Outstanding Resolutions

18 DECEMBER 2002

REPORTS FROM DIRECTOR ENVIRONMENT & COMMUNITY SERVICES

28a. Surf Life Saving Services - Casuarina Beach

Surf Life Saving; Casuarina Development

604

Cr Youngblutt

Cr Davidson

RESOLVED that

3. The Director Development Services and Director Environment & Community Services in the long term considers and develops a policy in regard to the responsibility and obligations where a private developer proposes to pay for the provision of surf lifesaving services. This policy should also consider any necessary conditions of consent for future developments.

Current Status: Awaiting strategy report from NSW Surf Life Saving Association.

19 MARCH 2003

ORDERS OF THE DAY

1. Rehabilitation of Cudgen Creek

Dredging - Cudgen Creek; Area 5 - Tweed River; Notice of Motion

227

Cr Youngblutt

Cr Lawrie

RESOLVED that the Tweed Coastal Committee be requested to provide Council with a report detailing what action has been proposed and taken to rehabilitate Cudgen Creek from the mouth up to and past the boat ramp.

Current Status: Workshop organised for 10 September 2003

Schedule of Outstanding Resolutions

7 MAY 2003

ORDERS OF THE DAY

3. Cudgen Creek

Waterways - Boat Ramps; Waterways - Cudgen Creek; Notice of Motion

354

Cr Youngblutt

Cr Beck

RESOLVED that:-

1. Cudgen Creek be rehabilitated forthwith to a navigatable condition for small craft from the mouth up to and beyond the boat ramp.
2. The spur wall on the southern training wall be removed.
3. The General Manager be asked to contact relevant Government departments regarding this project and our Local Member, Mr Neville Newell, for his assistance in obtaining Government funding.

Current Status: Workshop organised for 10 September 2003.

18 JUNE 2003

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

9. Draft Development Control Plan No 16 - Subdivision Manual

GT1/DCP/16 Pt2; Subdivision Policy; Development Control Plan - DCP

511

Cr Boyd

Cr Youngblutt

RESOLVED that Council holds a workshop and inspections of sites in relation to Development Control Plan No. 16.

Current Status: Workshop to be organised.

Schedule of Outstanding Resolutions

2 JULY 2003

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

5. Cudgen Creek

Cudgen Creek; Estuary Management; Notice of Motion

594

Cr Brinsmead

Cr Youngblutt

RESOLVED that Council brings forward a report on the effect that farming practices at Cudgen are having on the water quality of the area, especially Cudgen Creek and estuary system after heavy rains and in preparing this report, monitor and measure the water pollution levels of the Cudgen Creek system before and after heavy rains.

Current Status: Report to be prepared.

16 JULY 2003

REPORTS FROM DIRECTOR DEVELOPMENT SERVICES

13. Amendment to Development Control Plan 39 - Energy Smart Homes

DCP; Energy Efficient Housing; GT1/DCP/39 Pt1

619

Cr Boyd

Cr Marshall

RESOLVED that Council defers consideration and adoption of Development Control Plan No 39, Amendment No 1, for a period of three (3) months.

Current Status: Report to October meeting.

QUESTION TIME

Brothels

Land & Environment Court; Brothels

Cr Luff

What dollar amount has been spent to date on Council defending matters in the Land and Environment Court in relation to applications for brothels?

The Acting Director Development Services advised that a report would be brought forward on the issue.

Current Status: Report to Council meeting September 2003

Schedule of Outstanding Resolutions

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Mayoral Minute

Councillors,

1. Sports Achievement Awards

Sport & Recreation

7 August – attended the Presentation of Commonwealth Sport Achievement Awards at the Salvation Army Sports & Leisure Centre Banora Point

2. Ian Carpenter

Condolences

8 August – attended the funeral of Ian Carpenter, Director Corporate Services at Tweed Heads

3. Community Printmakers Awards

Civic Awards

8 August – attended the Community Printmakers Awards Night at the Art Gallery

4. South Tweed Rotary

Councillors' Invitations

11 August – attended South Tweed Rotary Dinner at South Tweed Heads

5. Tweed Chamber of Commerce

Councillors' Invitations

12 August – attended Tweed Chamber Breakfast at South Tweed Heads

6. NSW Sugar Mills

Councillors' Invitations

12 August – attended Sugar Milling Cooperative launch of "Sunshine Sugar – Secrets of Success at Ballina.

Mayoral Minute

7. Festival of Performing Arts

Councillors' Invitations

12 August – attended the Festival of Performing Arts Award Night held at Murwillumbah

8. Shires Association of NSW

NSW Shires Association

12 August – (with Brian Donaghy, Manager Administration Unit) attended a meeting with representatives from the NSW Shires Association held at Casino

9. Murwillumbah Netball

Councillors' Invitations

16 August – Netta Netball Presentations at Murwillumbah

10. Banana Festival

Banana Festival

16 August – Co-host Trivia/Bingo Night for Banana Queen Festival Entrant, Alyson Morgan.

11. Tweed Ministerial Taskforce

Tweed Ministerial Taskforce

18 August – Tweed Ministerial Taskforce - Jack Evans Boat Harbour Steering Committee Meeting at Tweed Heads

12. Murwillumbah Hospital Auxiliary

Councillors' Invitations

18 August – Murwillumbah Hospital Auxiliary AGM at Murwillumbah

13. Tweed Bowls Club

Councillors' Invitations

18 August – Tweed Bowls Club Sponsors' Dinner at Tweed Heads

Mayoral Minute

14. Sports Advisory Committee

Sports Advisory

19 August – Meeting of the Sports Advisory Committee at Cabarita

15. Business Excellence

Councillors' Invitations

20 August – business Excellence Breakfast at Tweed Heads (Trevor Hendy Guest Speaker)

16. Mayoral Charity Ball

Charity

20 August – presentation of proceeds from the Mayoral Charity Ball to Cabarita, Cudgen and Fingal Surf Clubs.

INVITATIONS ACCEPTED:

- **22 August** – Meeting with GM and Executives of Southern Cross University (discussions on future options for Tweed Campus)
 - **23 August** – Murwillumbah Netball Presentation at Murwillumbah
 - **23 August** – Banana Festival Ball
 - **24 August** – Harvest & Festival thanksgiving Service at All Saints Anglican Church Murwillumbah
 - **28 August** – Small Schools Concert at Murwillumbah
 - **29 August** - TEDC Board Meeting
 - **30 August** - Announce and sash winners Banana Festival Queen contest at Murwillumbah
 - **2-4 September** – Riversymposium Conference at Brisbane
-

INFORMATION ON CONFERENCES TO BE HELD –Councillors to advise Mayoral Assistant, Jan Green, if they wish to attend and/or require further details:

- **6-9 September** – 14th Australian Weeds Conference, Wagga Wagga
 - **8-12 November** – 2003 Australian Sister Cities Association Conference, Orange
-

Mayoral Minute

ABSENCES FROM SHIRE BY EXECUTIVE, MANAGERS AND COUNCILLORS

EXECUTIVE

Name	From	To	Location	Details
DECS	14 August 2003	15 August 2003	Sydney	Companion Animal Review
DES	1 September 2003	3 September 2003	Brisbane	Water Recycling Australia Conference / River Symposium
GM	13 August 2003	15 August 2003	Sydney	LGMA NSW Annual Conference

Reports from Director Development Services

MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 90 of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

Reports from Director Development Services

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Reports from Director Development Services

1. ORIGIN: Development Assessment Unit

FILE REF: DA03/0070 Pt1; LN 21342

REPORT TITLE:

Development Application DA03/0070.03 for an Amendment to Development Consent DA03/0070 for the Conversion of Existing Building to Chillingham Community Technology Centre at Lot 1 DP 597466 No. 1491 Numinbah Road, Chillingham

SUMMARY OF REPORT:

Council is in receipt of a Section 96 Application seeking to amend DA03/0070. The original application was approved by the Development Assessment Panel on the 23 April 2003, and granted conditional consent to convert an existing rural workers dwelling into a community facility for the accommodation of Chillingham Community Technology Centre. The centre was to provide computers, faxes, and staff assistance to help members of the community. However, it should be noted that the original development application only represented Stage 1 of a multi-stage development incorporating subdivision, creating a sporting field, and extending the community facilities to include a museum, herbarium, and an arts and crafts workshop, the other stages will be lodged at a later date as individual development applications.

The amendment sought as part of this S96 Application is the deletion of condition 8, which requires the payment of \$1789.20 in accordance with S94 Plan No. 4 - Tweed Road Contribution Plan. The applicant has submitted that the Chillingham Community Technology Centre (CTC) is a not for profit organisation with limited funds, and therefore requests that the fee in this instance be waived.

This fee was imposed in accordance with S94 Contribution Plan No. 4 - Tweed Road Contribution Plan. Having regard to the information submitted by the original applicant it was determined that the application would generate approximately 6 vehicle trips per day. In accordance with the Plan Chillingham is located within Sector 12 (Rural Inner Zone) and would normally generate a fee of \$6552 (based on 6 vehicle trips per day), however, Clause C of the Plan allows a concession to be granted to rural villages including Chillingham. Subsequently, the original consent reflected the concession rate of \$1789.20.

Council resolved at its Ordinary Meeting of 5 May 1999 (minute 1089):

“That unless exempted by legislation, development applications for works of public benefit submitted by or for charities, community groups, public bodies and religious organisations, which generate a demand for provisions of public amenities and services as identified in an adopted Section 94 Contribution Plan will be liable for the payment of contribution as set out in such plan.”

Therefore in accordance with Tweed Road Contribution Plan and the above resolution of Council it is recommended that Council's Policy be upheld and that this S96 Application be refused.

RECOMMENDATION:

That Development Application DA03/0070.03 for deletion of Condition No. 8 to Development Consent DA03/0070 for the conversion of existing building to Chillingham Community Technology Centre at Lot 1 DP 597466, No. 1491 Numinbah Road Chillingham be refused for the following reason: -

Reports from Director Development Services

1. The S96 Application is contrary to Council's adopted S94 Plan No. 4 – Tweed Road Contribution Plan and its adopted implementation by Council.

Reports from Director Development Services

REPORT:

Applicant: Chillingham Community Association Inc
Owner: Mr JG Gillieatt
Location: Lot 1 DP 597466, No. 1491 Numinbah Road Chillingham
Zoning: 1(a) Rural
Cost: \$20,000

BACKGROUND

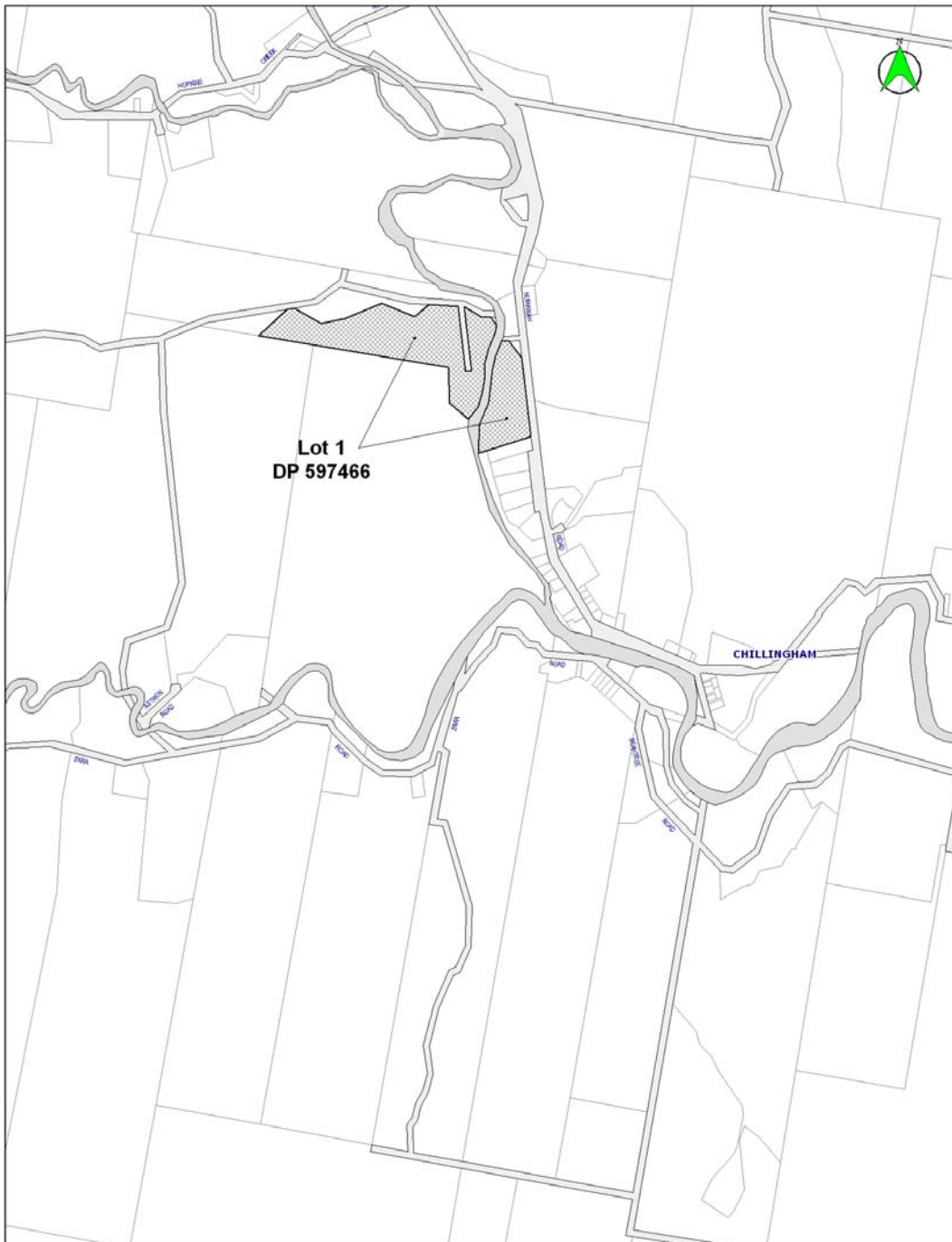
The original application was approved by the Development Assessment Panel on the 23 April 2003, and granted conditional consent to convert an existing rural workers dwelling into a community facility for the accommodation of Chillingham Community Technology Centre. The centre was to provide computers, faxes, and staff assistance to help members of the community. The conversion required repairs to the corrugated iron roof, replacement of roof guttering and down pipes, replacement of water storage facilities, repairs to the existing septic system, providing disabled access and facilities, refurbish the existing kitchen, create three car parking spaces and the removal of two trees. However, it should be noted that the original development application only represented Stage 1 of a multi-stage development incorporating subdivision, creating a sporting field, and extending the community facilities to include a museum, herbarium, and an arts and crafts workshop. The subsequent stages are to be lodged as individual development applications.


On receipt of the original application Council undertook numerous meetings with the then applicant Mr Geoff Hayes (Honorary Secretary Chillingham Community Association). These meeting were held to interpret the plans of the Chillingham Community Technology Centre Council and negotiate recommended conditions and issues specifically pertaining to site access and S94 Contributions. It was determined that as Council had provided Chillingham Community Centre with a \$20,000 grant towards works in Chillingham that this grant could be used to fund the future Development Applications and there subsequent costs (including S94 Contributions). However, Mr Geoff Hayes is no longer responsible for this application and the current Centre Manager for Chillingham Technology Centre has not had the benefit of these previous verbal agreements. Furthermore, it should be noted that since the lodgement of the original application Tweed Shire Council has acquired the land.

Despite this history the S96 Application now seeks Council to consider the deletion of Condition No. 8, which relates to the Tweed Road Contribution of \$1789.20. In accordance with Council Policy it is recommended that this condition be upheld and that the S96 Application subsequently be refused. However, if Council determines to approve this Section 96 Application Council will need to refund the \$1789.20 as the applicant has already paid the fee despite requesting the waiver.

Reports from Director Development Services

SITE DIAGRAM



<p>TWEED SHIRE COUNCIL, 2003 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW., 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 1 DP 597466 1491 Numinbah Road, Chillingham</p>	 <p>TWEED TWEED SHIRE COUNCIL</p>	<p>STRATEGIC PLANNING UNIT Site Plan Scale: N.T.S. Sheet: 1 of 1</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>		<p>Author: J. Batchelor</p>	<p>Date: 12/Aug/2003</p>

Reports from Director Development Services

CONSIDERATIONS UNDER SECTION 96(1A) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(1A) Modification Involving Minimal Environmental Impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

a) It is satisfied that the modification is of minimal environmental impact, and

The deletion of condition No. 8 will have no physical impact to the development application and could be approved within the provisions of S96 (1A). However, if the S96 were to be approved this may set a precedent for other like organisations. This potential precedent should be considered as part of the assessment of this application.

b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all) under this section, and

The deletion of condition No. 8 will not change the nature of the original approval and will still be substantially the same development to which consent was originally granted approval.

c) It has notified the application in accordance with the regulations or applicable DCP, and

Neither the Regulations nor Council's Development Control Plan No. 42 – Public Notification of Development Applications requires the notification of such an application.

d) It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be

No submissions were received.

The applicant has submitted the following justification for the amendment:

“Tweed Valley CTC is a “not for profit” community project, taking computer technology to rural areas. The communities these centres are situated in have previously had little or no availability to computers or fast access to the internet. One of the objectives of the CTC is to re-engage those in the community who feel isolated either by geography or personal reasons. The CTC is run by volunteers, some of whom have been unemployed for many years. They are being retrained with a variety of skills, gaining new confidence to attempt to rejoin the workforce once again. Other volunteers are seniors who have many untapped skills, and who, through a monitoring program, are given new impetus by imparting their knowledge to youth and other volunteers who work in the centre.

Since opening in November 2002 Tweed Vallet CTC has created part time work for 4 unemployed volunteers and has offered free programmes to seniors, youth and womens groups to introduce them to new technology.

Reports from Director Development Services

In other parts of New South Wales Local Government has recognised the benefits of Community Technology Centres in their districts and sponsors or subsidises them in the hope of keeping the centres open. I have been hired because of my business experience and community access and am hoping to help Tweed Valley CTC attain self-sustainability by June 2004. This is an extremely difficult task, but to date we are on schedule with our financial forecasts. With the help of a great volunteer staff we are creating new work rather than taking business form existing companies.

I appreciate that this fee has already been reduced, but Tweed Valley CTC was never told of the levy by Chillingham Community Association and unfortunately the fee has to come out of the budget set aside for equipment at Chillingham, which will ultimately only affect those in the community who need this centre to increase their skills to hopefully gain employment or keep in touch with family. Chillingham Community Association are also a great community group trying to improve facilities for members of their community and have similar budget constraints to Tweed Valley CTC.

The original treasurer of Tweed Valley CTC has since left our organisation, but before doing so left debts or us with the Australian Tax office because eof his incompetence with aspects of accounting. We have overcome this but the additional cost of the road levy simply makes things more difficult for us. Because of the tight budget restraints I am hoping Tweed Shire Council waives the entire contribution.”

The benefits of such an organisation to the community is not questioned or disputed and whilst budget constraints make the running of such organisations difficult Council has adopted S94 Plan No. 4 – Tweed Road Contribution Plan and has further resolved “*that unless exempted by legislation, development applications for works of public benefit submitted by or for charities, community groups, public bodies and religious organisations, which generate a demand for provisions of public amenities and services as identified in an adopted Section 94 Contribution Plan will be liable for the payment of contribution as set out in such plan.*”

The fee was imposed in accordance with S94 Contribution Plan No. 4 - Tweed Road Contribution Plan. Having regard to the information submitted by the original applicant it was determined that the application would generate approximately 6 vehicle trips per day. In accordance with the Plan Chillingham is located within Sector 12 (Rural Inner Zone) and would normally generate a fee of \$6552 (based on 6 vehicle trips per day), however, Clause C of the Plan allows a concession to be granted to rural villages including Chillingham. Subsequently, the original consent reflected the concession rate of \$1789.20.

Therefore in accordance with Tweed Road Contribution Plan and the above resolution of Council it is recommended that Council’s Policy be upheld and that this S96 Application be refused.

OPTIONS

1. Refuse the S96 Application as recommended; or
2. Approve the S96 Application and subsequently delete condition No. 8 relating to the imposition of S94 Plan No. 4 and refund the appropriate money to the applicant.

Reports from Director Development Services

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicants be dissatisfied with the decision they have a right of appeal to the Land & Environment Court.

CONCLUSION

The Tweed Valley Community Technology Centre is a good community organisation that should be recognised for its efforts however, Council has issued Chillingham Community Centre with a \$20,000 grant to fund this type of project. Furthermore, Council has adopted Policy, which should be enforced to restrict the potential for precedent.

Reports from Director Development Services

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Reports from Director Development Services

2. ORIGIN: Development Assessment Unit

FILE REF: DA03/0336 Pt1; LN 19955

REPORT TITLE:

Development Application DA03/0336 for Multi-Dwelling Housing Development Comprising 6 x 2 Bedroom Units - 3 Units Each in 2 Buildings at Lot 148 DP 755730 Mitchell Street, Uki

SUMMARY OF REPORT:

Council is in receipt of a development application for a multi dwelling housing development consisting of six units. The proposed development is for two separate buildings each containing three units. The proposed development steps down the site and has the benefit of two street frontages to Mitchell Street and Grants Road, Uki.

The proposed development is the first multi dwelling housing development in Uki. The village of Uki is to be provided with sewer connections towards the end of September. With the advent of reticulated sewer to Uki a “development push” is likely to occur, with the proposed development being potentially the first of many.

Uki is in a Heritage Conservation Area under the Tweed Local Environmental Plan 2000. This application is assessed in relation to the heritage aspects identified in a report to Council on Uki from the National Trust of Australia.

The prominent location of the site and constraints are raised as further issues in the following report. The application is assessed on its merits and the conclusion is made that the proposal should not be supported.

RECOMMENDATION:

That Development Application DA03/0336 for multi-dwelling housing development comprising 6 x 2 bedroom units - 3 units each in 2 buildings at Lot 148 DP 755730, Mitchell Street, Uki be refused for the following reasons:

1. The proposed development is contrary to the objectives of the 2(d) Village zone in that it does not provide development of a design or scale that makes a positive contribution to the character of the village.
2. The proposed development is contrary to the objective of the Tweed Local Environmental Plan 2000 as the proposal is in not compatible with the area’s environmental and residential amenity qualities.
3. The proposed development undermines the heritage significance of the Uki Heritage Conservation Area as provided for by the Tweed Local Environmental Plan 2000.
4. The proposed development is not accompanied by adequate information to demonstrate compliance with Council’s Access to Property Policy.
5. The proposed development is contrary to the character of Uki in relation to the scale and density.
6. The proposed development would result in an unacceptable precedent for development in the Village of Uki.
7. The proposed development is not in the public interest.

Reports from Director Development Services

REPORT:

Applicant: Mr P Ridgeway
Owner: Mr PE Ridgeway and Mrs MN Ridgeway
Location: Lot 148 DP 755730 Mitchell Street, Uki
Zoning: 2(d) Village Zone
Cost: \$750,000.00

BACKGROUND

Council received the subject development application and commenced to advertise the proposal. During the exhibition period Council received a number of submissions and representation has also been made to Community Access.

The proposed development is accompanied by a Consultant's report that addresses the proposal in relation to current planning controls. It is noted however that there is no specific Development Control Plan from the Village of Uki and its Heritage Conservation Area status as provided under Tweed Local Environmental Plan 2000. It is noted that the North Coast Regional Environmental Plan 1988 does not include the Uki Heritage Conservation Area, rather conservation areas of Regional significance are identified.

Under the Tweed Local Environmental Plan 1987 the village of Uki was identified as being a Heritage Conservation Area. The planning instrument had similar provisions as those provided for under the current LEP.

The significance of the village of Uki was identified in a National Trust report to Tweed Shire prepared approximately in 1979. The report identified the features of significance in Uki that are identified in this report in the assessment of the application.

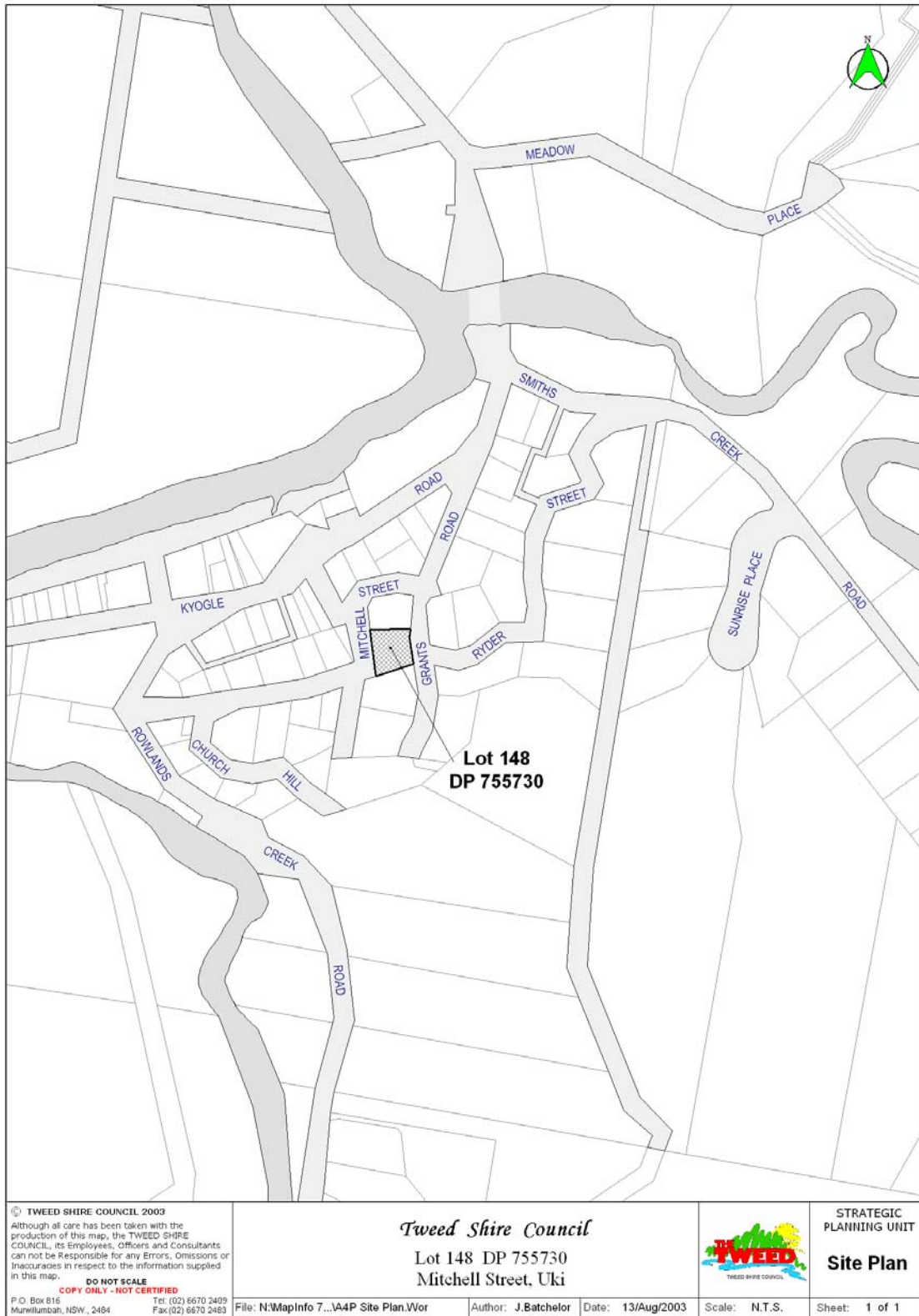
The subject land is 1600m² and has the benefit of two road frontages being Mitchell Street and Grants Road Uki. The road network for Uki is relatively narrow and has the benefit of an all weather surface with no kerb and gutters. The site is currently overgrown and is relatively steep with an average fall of 28%.

From the intersection of Norco Street and Kyogle Road the site is able to be viewed in part with the adjoining dwelling house being in clear view. The subject land appears to be partly obscured by vegetation on adjoining land and property opposite the development.

The above identified issues are significant in the assessment of the proposed development.

Reports from Director Development Services

SITE DIAGRAM



Reports from Director Development Services

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject land is zoned 2(d) Village under the Tweed Local Environmental Plan 2000. The objective of the zone is:

“To provide for residential development and a full range of services and facilities traditionally associated with a rural village which is of a design and scale that makes a positive contribution to the character of the village.”

The proposed development is further assessed in this report in relation to its design and scale and contribution to the character of the village. The village of Uki is considered to have a unique character in terms of its setting and building forms. The proposed development is not considered to make a positive contribution to the character of the village for reasons that are further detailed in this report.

It is considered that the proposed development is not consistent with the objective of the zone.

Clause 8 of the TLEP provides consent considerations for Council stating that Council may grant consent to development only if:

- a. It is satisfied that the development is consistent with the primary objective of the zone within which it is located, and
- b. It has considered those other aims and objectives of this plan that are relevant to the development, and
- c. It is satisfied that the development would not have an unacceptable cumulative impact on the community, locality or catchment that will be affected by its being carried out or on the area of Tweed as a whole.

Other aim and objective of this plan that is relevant to the proposal is:

“d) To encourage sustainable economic development of the area of Tweed compatible with the area’s environmental and residential amenity qualities.”

The proposed development is not considered to be sustainable development for the Village of Uki in terms of the density of development and the road network and topographical constraints. The proposal is not consistent with the area’s environmental and residential amenity qualities.

The proposed development is assessed as having an unacceptable cumulative impact on the community and locality of Uki. Given the above assessment of the proposal in relation to the objective of the zone, the relevant objectives of the plan and potential cumulative impacts it is considered that Council is unable to satisfy the consent consideration provisions of Clause 8 of the TLEP.

Reports from Director Development Services

Clause 15 of the TLEP states that consent must not be granted to the carrying out of development on land unless essential services are available or satisfactory alternative arrangements made.

Uki is being connected to reticulated sewerage, and while this infrastructure instalment has not been completed it is eminent and likely. Therefore any determination by way of approval could be of a deferred commencement nature to satisfy the requirements of Clause 15.

Clause 16 of the TLEP provides a Height of Buildings map to ensure the height and scale of development is appropriate to its location. The subject land has a three storey height limitation and as the proposal of two storey development this clause is satisfied.

Clause 35 of the TLEP relates to the management of acid sulfate soils. The site is not identified as containing acid sulfate soils and Council's Environmental Health Surveyor has not required further assessment in this regard.

Clause 40 of the TLEP provides heritage objectives for the heritage provisions these being:

- To conserve the environmental heritage of the area of Tweed.
- To ensure that any development does not adversely affect the heritage significance of heritage items and heritage conservation areas and their settings.
- To provide for public involvement in the conservation of environmental heritage.
- To integrate heritage conservation into the planning and development control processes.

Clause 41 of the TLEP identifies the Village of Uki as marked on the zoning map as being a heritage conservation area.

Clause 42 of the TLEP details development that may be carried out only with development consent. Relevant to the proposal is:

“e) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.”

Further when determining a development application required by Clause 42 Council must take into consideration the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or conservation area. In this regard assessment of the affect of the proposal on the heritage conservation area is addressed in this report.

There are no further provisions of the Tweed Local Environmental Plan 2000 applicable to the proposed development.

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North Coast Regional Environmental Plan 1988

The Village of Uki Heritage Conservation Area is not identified in the REP as only areas and items of regional significance are identified. Therefore the provisions in relation to heritage conservation areas do not apply to the proposed development.

Clause 43 of the REP states that Council shall not grant consent to development for residential purposes unless, relevant to this application,—

- It is satisfied that the density of the dwellings have been maximised without adversely affecting the environmental features of the land,
- It is satisfied that the proposed road widths are not excessive for the function of the road,
- It is satisfied the road network has been designed so as to encourage the use of public transport and minimise the use of private motor vehicles.

In relation to this clause the applicant has submitted that the proposed density of one dwelling per 270m² of site area maximises development of the site whilst maintaining satisfactory design and amenity for residents and consequently the character of the village.

The applicant has submitted that sediment and erosion control measures would be implemented, this ensuring the proposed density does not adversely affect environmental features of the land.

However it is considered that the proposed density does adversely impact on the environmental features of the land, its gradient and vegetative coverage, resulting in visual impacts within the village.

In relation to the other requirements of Clause 43 the proposal does not include proposed roads of excessive widths, rather provides multi dwelling housing on a road network without the design capacity for two way traffic.

The REP does not require densities to be maximised where such results in adverse impacts to the local environment.

There are not other provisions of the REP applicable to the proposed development.

State Environmental Planning Policies

State Environmental Planning Policy No.55 – Remediation of Land

The applicant provided a preliminary site contamination assessment in accordance with Council's Contaminated Land Policy. Council's Environmental Health Surveyor has advised that this assessment has satisfied Council's requirements.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

The proposed development does not require assessment in relation to any of the draft environmental planning instruments.

Reports from Director Development Services

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.2 – Access and Car Parking

The proposed development provides 12 on site car parking spaces of which 6 are proposed to be available for visitors.

DCP 2 requires 1.5 spaces per unit, being 9 car parking spaces of which 2 are to be available for visitors. The proposed development is considered to comply with the requirements of DCP2 in terms of on site car parking.

Council's Traffic Engineer has raised concern with the driveway access to the property not complying with Council's Policy. This is further discussed under the road environment section of this report.

Development Control Plan No. 6 – Multi Dwelling Housing

The proposed development is accompanied by a site analysis as required by DCP 6 responding to the design considerations. The applicant has submitted that the site planning and layout was considered in the design of the proposal, with half of the development being access from Mitchell Street and half from Grants Road.

Landscaped Area

The landscaped area requirements for the proposed development are the provision of 480m² given the need for 80m² per unit. The applicant has submitted that the proposal meets this requirement with landscaping plan being submitted.

Streetscape

The applicant has submitted that the proposed development has been designed to be compatible with the existing streetscape by:

- Setting the buildings back a minimum of 6 metres from Mitchell Street,
- Minimising building height and bulk by proposing two buildings that step down the slope,
- Maintaining the roads in their current form,
- Using materials and colours compatible with the village environment, and
- Ensuring the garages do not dominate the frontage.

The applicant has demonstrated that the proposed development achieves the acceptable solutions in relation to streetscape.

Fences

The application is accompanied by a Fence Height Variation to Grants Road for the erection of an 1800mm high brush fence. Council's Building Surveyor has supported this application in relation to Council's Fence Height Policy. It is however considered that the proposed fence is not in keeping with the streetscape for the locality.

Building Envelope

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The proposed buildings have been designed to be sited within the required building envelopes.

Visuals Views and Privacy

The applicant has submitted that the design of the proposal has addressed the views and privacy to adjoining development as well as within the development.

The highly important view opportunities of Mount Warning are not obstructed by the proposed development. The applicant has submitted that visual privacy would be provided by installing screened private open space areas to the units.

Useable Open Space

The proposed development provides each unit with the required 25m² useable open space.

In respect of the provisions of DCP 6 the proposed development generally complies.

It is considered that DCP 6 provides suitable controls for multi dwelling housing outside of rural villages and that the development controls do not result in development reflecting the character of villages such as Uki.

Development Control Plan No.39 – Energy Efficient Housing

The applicant provided the required Natthers certificates to demonstrate that the proposal complies with Council's requirements.

Development Control Plan No.47 – Cut and Fill on Residential Land

The applicant has submitted that the proposed development satisfies the objectives of the DCP.

The applicant's Engineer report details that the proposed works involve cut and fill benching approximately 1.5 metres depth for each cabin storey. A 3 to 4 metre maximum depth filling, using surplus excavated material, will occur in the south western corner behind new retaining walls.

DCP 47 requires where excavations in excess of one metre that they be adequately retained and drained in accordance with engineering details.

In the event that Council is of a mind to approve the proposed development conditions in this regard would be required given the amount of earthworks and need for retaining walls.

(a) (iv) Any Matters Prescribed by the Regulations

The subject land is not in the Coastal Policy area. There are no further matters prescribed in the regulations applicable to the proposal.

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(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Heritage

The village of Uki is identified as being a Heritage Conservation Area under the Tweed Local Environmental Plan 2000. Council has not adopted a development control plan for development in the village of Uki as to date the village has been limited due to the absence of reticulated sewerage. However it is noted that this application is potentially the first of many in Uki and as such it is important that the heritage values of Uki be identified and addressed in the assessment of this application.

Council received a report from the National Trust back in 1979 that identified the heritage values of Uki. The heritage of Uki was not considered to be on buildings alone, however the report did identify buildings that were included in the 1987 and 2000 LEP's. One of the points of significance raised in the report was:

The elements of Uki: its landform and setting, its layout, its approaches, its views within and without the town, its buildings, all combine to form a townscape of high quality.

The following values were identified:

- Allotments are irregular in size and shape, have been designed to suit topography. In general the lots are larger and with greater width than typical suburban allotments.
- Buildings in Uki are modest in both scale and architecture. Historic buildings are worthy of conservation for the Tweed.
- Throughout the Village and along the approach roads there are large groups of trees. This provides an attractive landscape setting.
- Village has a sense of enclosure highlighting the topography, the villages containment and absence of straggling development.
- The village is attractive and this amenity should be retained for residents and visitors. Attractive places are worthy of keeping for their own sake.

The report also identified threats for Uki including the erection of new buildings that differ greatly in scale, form and materials from the older existing buildings. Such development would tend to overwhelm the existing buildings and dominate the village. The visual effect of new development could be mitigated by careful landscape controls.

However from assessment it is noted that the heritage value of Uki most affected by the proposal is the setting. The subject land can be viewed from the main street at the intersection of Norco Street and Kyogle Road. The view of the site is obscured in part by adjoining vegetation possibly located in the road reserve. However the site does form part of the green ridgeline that appears to encapsulate the village when viewed from the main street.

The applicant correctly points out that not all adjoining residential development to the site is of heritage design and that the village is characterised by a range of contemporary

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building materials. However from the village main street, the scenic qualities of Uki are not impacted on by contemporary dwellings.

Scale of development is important to the sense of place that Uki represents. The village consists of single dwelling houses dispersed on large allotments of land. The average lot size in the village is 2000m² with smaller allotments also being present. The landscape and topographic features of Uki are achieved by these larger allotment sizes, supporting single dwelling houses and significant trees.

Given the values and elements of Uki identified that resulted in the Heritage Conservation Area it is considered that the proposed development is not suitable development due to the scale and impacts on the Heritage Conservation Area.

It is also important for Council to commence a heritage study process for the Village with a view of identifying the development controls that need to be adopted and reflected in an appropriate development control plan.

Natural Environment

The applicant has submitted that the proposed development would result in the removal of dense vegetation currently on the site. The applicant submits that this vegetation comprises camphor laurel and lantana and that the proposal does not involve the removal of significant native vegetation or sensitive habitat and is unlikely to adversely impact any surrounding vegetation.

In this regard the applicant concludes that the proposed development would not be likely to have a significant impact on threatened species, populations or ecological communities or their habitats.

The subject site is densely overgrown and it supports predominantly weed species. However the camphor laurels do provide a green vista when viewed from the main street.

Built Environment

The applicant has submitted that the proposed development is designed by a heritage architect and is suitable built form for the village of Uki. The applicant has also identified that many of the adjoining houses are of a brick and tile or colour bond roof construction, detracting from any heritage values in the built environment.

Where the proposal changes the built environment is by changing the density of the development from single dwelling houses to unit development. The applicant has submitted that it would have been possible under Council's controls to put more units on the site than the proposed 6 units.

The surrounding allotments are significant in size with the majority of allotments being more than 2000m² in size and supporting only dwelling houses. The built environment is characterised by single dwelling houses.

Under Council's Tweed Local Environment Plan 2000 the minimum allotment size for land zoned 2(d) Village is 450m². The applicant has submitted that the subject land could be subdivided to create three allotments, each supporting a dwelling house.

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Thereby impacting on the built environment of Uki, and that the proposed development would be more desirable.

In comment it is noted however that the built environment is not only characterised by large allotments, but that the topography is such that development is constrained by the suitability of the site to support the proposed type of development.

Streetscape

The streetscape in the immediate environs of the proposed development is of a village nature with housing dispersed within larger allotments, separated by yards containing vegetation. The density of the development is relatively low providing the streetscape with a rural village atmosphere. This is further reflected by the distant views of farm paddocks and the Mount Warning National Park.

The surrounding residences do not have front fencing and have an informal appearance to the streetscape. The application has been accompanied by a fence height variation to Grants Road. The proposed fence is to be 1800mm high brush fencing that is broken into two sections by way of the driveway.

This fence type is of natural appearance, however given the absence of this delineation between public and private lands in the village it impacts on the streetscape. The impact may be lessened when Council pursues road works in the village including kerb and gutter, however

Road Environment

The applicant provided a report prepared by an Engineer in relation to the road environment. Council's Traffic Engineer assessed the proposed development and concluded that the existing road network is a low speed environment, the roads are local residential streets and that the existing volumes are low and with the proposed increase the impact is minimal.

Council's Traffic Engineer identified a Council plan for road widening and kerb and gutter for the Mitchell Street and Grants road frontages. Should Council be of a view to support the proposal various conditions would need to be imposed to result in a suitable road environment.

However Council's Traffic Engineer did advise that the proposed driveway to Mitchell Street appears impossible to construct with compliance with Council Policy given the height of the embankment that needs to be crossed. It is recommended that one of the reasons for refusal should be that inadequate information to ensure compliance with Council's policy for Access to Property has not been provided.

(c) Suitability of the site for the development

Topography Constraints

The subject land falls away from Grants Road towards Mitchell Street at an average of 28%. This is a relatively steep site and consequently the proposed development requires earthworks and retaining walls for the site to support the proposed buildings. The proposed buildings step down the slope of the site and follow the fall of the land.

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As the development steps down the slope of the land the proposed buildings will be more prominent when viewed from the main street. It is acknowledged that landscaping and existing trees may obscure part of the development, however the coverage of the site by a building will be an impact.

The topography of the site is considered to present both physical constraints to the building on the site and visual impacts in terms of the prominence of the building coverage and related site works from the main street.

(d) Any submissions made in accordance with the Act or Regulations

The proposed development was publicly exhibited and notified widely in accordance with Council’s Policy. Due to some confusion with the original advertisement the application was further advertised resulting in a lengthy exhibition period.

Council received 23 individual submissions and two petitions with a total of 395 signatures, the following table details the issues raised in the submissions.

Issue	Comment	Assessment
Uki is at a turning point	This application signifies an undesired change.	The proposal is the first medium density development for Uki. This is not a reason to refuse the proposal however other reasons recommended reflect the essence of this statement.
Density of Development	Medium density development is not suitable for Uki. Uki is a single dwelling house village.	The applicant has submitted that the site could have accommodated 8 units and the proposal was designed for 6 to be in keeping with the character of Uki. The applicant has also submitted that the site could be subdivided into three lots based on the LEP development standards. The proposal fails to recognise the site constraints and the characteristics of Uki in setting a direction for the future density of development of Uki. This issue is reflected in the recommended reasons for refusal.
Increase in Population	Village population will expand with the advent of medium density development.	The increase in population in Uki would be noted by the proposal, however where the marked change would occur is with other large allotments being developed. The cumulative impacts of the proposal are reflected in the recommended reasons for refusal.
Road Standard	Existing road network is of a poor standard to support development.	The applicant submits that the Martin Findlater report proposes upgrading Mitchell Street to alleviate potential adverse impacts

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Issue	Comment	Assessment
		<p>adverse impacts.</p> <p>Council's Traffic Engineer has recommended that conditions could satisfy this issue.</p> <p>This is not considered to be a reason for refusal.</p>
Road Safety	Due to narrow road network safety issue arises for pedestrians and vehicles with increase in development.	<p>Council's Traffic Engineer would require conditions of consent for road works in accordance with an adopted road improvement plan. It is considered that road safety could be addressed by conditions on the road works, if Council was of a view to approve the proposal.</p> <p>This issue is not considered to be a reason for refusal.</p>
Topography of Land	Subject site is steep and unsuitable for medium density development.	<p>The proposed development does require earthworks and retaining walls to be able to be built on the subject land.</p> <p>The features of the site are considered to be a reason for refusal.</p>
Precedent	Approve this medium density housing and the flood gates will open for more similar development.	<p>The applicant has submitted that the precedent set by the proposal, being low scale limited height and designed by a heritage architect, is a good precedent.</p> <p>It is considered that the precedent of a development such as the proposal is an issue of concern and such is reflected in the recommended reasons for refusal.</p>
Car Parking	<p>All on site car parking is dedicated for residents and not casual visitors or delivery vans to the site.</p> <p>The local road network is not adequate to support any informal street parking.</p>	<p>The application complies with the DCP 2 requirements for car parking.</p> <p>This issue is addressed in the report and does not form one of the recommended reasons for refusal.</p>
Change to Amenity	Medium density development will change the amenity of the village.	<p>The proposed development does result in changes in the amenity and this issue is addressed in this report.</p> <p>This issue forms one of the recommended reasons for refusal.</p>

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Issue	Comment	Assessment
Scenic Impacts	The proposal is a large building comparative to other development in Uki and this will have a scenic impact in the village.	The scenic impacts of the proposed development are addressed in this report and reflected in the recommended reasons for refusal.
Heritage	Proposal will change the heritage appearance of the village.	<p>The applicant has submitted that the proposal is designed by a Heritage Architect. That the development is designed to reflect the existing village character and heritage values.</p> <p>The applicant submits that the existing adjoining development is not of a building style to be complimentary to heritage values.</p> <p>The heritage issues raised by the proposal are addressed in this report. The heritage of Uki is assessed to be more than the built form.</p> <p>This is recommended as one of the reasons for refusal.</p>
Design	Proposal is out of character with Uki.	<p>Applicant submits that the proposal attempts to achieve a desirable heritage design outcome for the village.</p> <p>The design of the proposal is assessed in the report. Elements of the proposal are drawn on to form reasons for refusal.</p>
Earthworks and retaining walls	The amount of earthworks and use of retaining walls is excessive and impacts on immediate adjoining properties.	<p>The proposed development involves earthworks and retaining walls due to the steepness of the site. These works involve high level of disturbance over the site. The site is not considered to be suitable for the proposal given this constraint.</p> <p>Recommended reasons for refusal identify the site to not be suitable for the proposal.</p>
Stormwater	Proposal will result in stormwater impacts due to steep site with increase in hard stand areas.	<p>The applicant has made submission in relation to stormwater that has been assessed by Council's Engineer.</p> <p>Council's Engineer has recommended conditions that could be imposed in relation to stormwater.</p> <p>This is not considered to be a reason for refusal.</p>

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Issue	Comment	Assessment
Development Standards	<p>DCP 6 is an inadequate document for the assessment of development in rural villages.</p> <p>The controls are not relevant.</p>	<p>The applicant has submitted that the proposal complies with Council's requirements for multi dwelling housing.</p> <p>Applicant submits that a DCP for Uki may guide future developments.</p> <p>DCP 6 compliance is addressed in this report and the DCP is not considered to be a reason for refusal.</p> <p>However this report does acknowledge that the development standards contained in the DCP are not appropriate for development in a rural village such as Uki.</p>
Fence Height Variation	<p>The proposed development will dominate the streetscape with car parking driveways and garages. The fence height variation only adds to this streetscape domination.</p>	<p>Council's Building Surveyor has prepared a report in relation to the fence height variation, recommending such can be supported based on the fence height policy.</p> <p>It is noted in the streetscape impacts of the proposal that the proposed fence height variation would be an impact. The streetscape impacts of the fence height variation are reflected in the recommended reasons for refusal.</p>
Scale of Development	<p>The scale of the proposal is not in keeping with Uki and scale of surrounding development.</p>	<p>The applicant has submitted that the scale of the development is in keeping with Council's policies.</p> <p>However from assessment it is considered that the scale of the development is not in keeping with the village of Uki. This is reflected in the reasons for refusal.</p>
Building Materials	<p>Proposed development is out of character with Uki in terms of selected building materials.</p>	<p>The applicant submits that the proposal will be constructed of appropriate materials and colours.</p> <p>This issue is not identified as a reason for refusal.</p>
Disability Discrimination Act	<p>Proposed units will not be able to be habituated by people with a disability.</p>	<p>Should Council be of a view to approve the proposed development a standard condition would be imposed requiring the development to comply with the legislation.</p> <p>This is not an issue to warrant refusal.</p>

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(e) Public interest

Having regard for the issues raised by the proposed development it is considered that the proposal presents some conflicts with the general public interest. The village of Uki has not the benefit specific controls for development and consequently, while the application generally complies with the relevant development control plans, it does not make a positive contribution to the village amenity. Therefore the proposed development is not considered to be consistent with the zone objectives.

The range of issues raised in the submissions received highlights the values held in the community. It was noted that all submissions were from the residents of Uki, but also other rural village progress associations and neighbouring environs, highlighting the importance of the character of Uki being retained for both residents and visitors.

The proposed development is not considered to be the general public interest.

OPTIONS

1. Refuse the proposed development for the recommended reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS

Should the applicant be dissatisfied with the determination of the proposed development they may seek a review by the NSW Land and Environment Court.

The proposed development highlights the need for Council to undertake a Heritage Study for Rural Villages with a view to completing a development control plan to assist in directing appropriate future development in the Shire.

CONCLUSION

The proposed development is considered to be premature in the absence of more specific planning controls for Uki. The proposed development is considered to be of a density and scale unsuitable for Uki and given the average allotment size it is likely that the proposal could form a precedent for other development in the village.

The subject land is able to be viewed from the main street and it is considered that the proposed development would be prominent in being of a higher level of coverage when compared to the existing development in Uki, being single dwelling houses.

While the applicant is of the view that the proposal has been designed with regard to the heritage characteristics of Uki it is considered that the proposal does not adequately address impacts to the heritage setting and characteristics of the village. The Heritage Conservation Area of Uki is not based on heritage building form alone, but is a reflection on the unique setting of the village. It is considered that the proposed development would impact on the identified heritage elements.

The proposed development has emphasised the importance of Council pursuing a heritage and planning study of Uki and to progressively prepare Development Control Plans for the rural villages of the Shire and adopting suitable development controls to guide future developments.

Reports from Director Development Services

3. ORIGIN: Strategic Town Planning Unit

FILE REF: Strategic Planning Program

REPORT TITLE:

Strategic Planning Work Program – August 2003

SUMMARY OF REPORT:

The Strategic Planning Work Program (SPWP) has been reviewed. This has highlighted a number of potential projects for inclusion in the SPWP. However there are no resources to include additional items. Therefore the program should remain as agreed by Council on 19 February 2003.

RECOMMENDATION:

That the Strategic Planning Work Program should remain essentially as agreed by Council on 19 February 2003, as follows: -

“the following projects be endorsed as the Strategic Planning Work Program priorities for the period until the first quarterly review of the 2003/2004 Management Plan:

- *Tweed Shire Strategic Plan*
- *Tweed Coast Strategy and District Centre Strategy*
- *West Kingscliff planning – draft DCP9*
- *Rural Settlement Strategy and Rural Land Use Study*
- *Local Environmental Studies and draft Local Environmental Plans for:*
 - a) *Kings Forest*
 - b) *Black Rocks*
 - c) *Chinderah*
 - d) *South Pottsville; and*
 - e) *“Area E”, Terranora*
 - f) *Tanglewood*
- *DCP Koala Beach*
- *Various draft LEP Housekeeping and other amendments*
- *Economic Development Projects:*
 - o *Kingscliff Sewage Treatment Plant rezoning*
 - o *Industrial lands*
 - o *Coolangatta Airport*
- *Human Services Delivery Plan*
- *Banora Point Community Centre*
- *Public Transport Plan*
- *Flood Management*
- *Residential Development and Housing Affordability Strategies*
- *Bushfire Hazard DCP*

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- *South Kingscliff Tourism site*
- *Vegetation Management Plan and accompanying LEP*
- *Crime Prevention Plan*
- *Community Facilities Policy and Program*
- *Coastal Hazard Policy*
- *Draft LEP preparation for Leisure Gardens, Pottsville (including possible school site)*
- *Development Control Plan for Cabarita*
- *Draft LEP preparation for reclassification of Council land”*

Reports from Director Development Services

REPORT:

1. BACKGROUND

The Strategic Planning Work Program (SPWP) prioritises the work of the Strategic Planning Unit (SPU) on critical planning issues for the Shire. The current Program, which is set out in Appendix 1, has been reviewed in terms of: -

- content
- effectiveness in prioritizing strategic projects;
- efficiency of individual project completion; and
- the quality of outcome of both the Program itself and projects included in the Program.

Most of the outcome of the review concerns operational matters. However, Council endorsement is required to: -

1. Establish a clearer relationship between the Program and the Management Plan
2. Provide a clearly defined outcome, timetable and resource availability for each project
3. Council involvement

As a result of the above a SPWP for the next 12 months has been prepared for Council consideration with regard to: -

- Identified corporate needs
- Nominated new projects
- Review of current projects

2. PROPOSALS FOR INCLUSION IN THE PROGRAM

Potential inclusions in the Program arise from two sources: -

- Those identified by Council itself, primarily through the Management Plan
- Those identified by landowners, community groups, developers etc

2.1 Potential projects identified by Council

The Management Plan sets out Council's priorities for the next 3 years, including strategic and operational items. The annual budget process provides financial resources to implement most of the nominated items not to be undertaken by Council staff; and the quarterly report monitors their implementation.

Appendix 2 sets out the nominated projects in the current Management Plan, the target completion (where nominated) and whether those projects are included in the current SPWP. The majority of those items are already being dealt with. The following are not included:-

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1. Locality Plans: The Management Plan includes a program for the preparation of Locality Plans for various settlements in the Shire. Kingscliff, Cabarita and Pottsville have been nominated for 2003/04. A DCP for Cabarita is already included in the Program. The re-focusing of the relevant projects for Kingscliff will result in a comprehensive DCP. A Village Strategy for Pottsville was adopted by Council in 1999, but has not been translated into a DCP. Much of the Strategy has been implemented. However there are three crucial and inter-related issues that must be addressed, namely: -
 - future retail facilities,
 - the need for the village bypass, and
 - general village enhancement.

These issues were addressed by Council and the community at a workshop in Pottsville in May 2003. The determination of future retail needs is the key to this project, and until the retail strategy has been completed there is little point in commencing any work on a Pottsville DCP. Nevertheless should it be included in the program?

A submission has been received from Burringbar & District Progress Association questioning why Burringbar was not to be provided with a Locality Plan. The Association argue there is *“great urgency to clearly define what futures of the rural villages are going to be. Can Council identify what is the way forward for creating a Locality Plan for the southern rural villages of the Tweed?”*

Whilst a DCP would be useful there is no justification in bringing Burringbar ahead of already nominated localities. Moreover, the Rural Villages Development Strategy is designed to deal with the Tweed rural villages on a comprehensive basis. See item 3 below.

2. Tourist Plan: Tourism is an integral part of the Tweed local economy. As a consequence the Management Plan includes this project, which was originally nominated in the Economic Development Strategy to ensure that there is the necessary infrastructure to ensure the growth of the industry. Although it is considered to be a significant project there are no resources to complete it.
3. Rural Villages Development Strategy: The Management Plan includes this project. Although it is considered to be a significant project there are no resources to complete it.
4. Threatened Fauna Management Plan: The Management Plan includes this project. Funds have been allocated in the budget to undertake this project, which would greatly assist the assessment of development applications in sensitive areas; and the protection of those sensitive environments and species.
5. Landscape DCP: The Management Plan includes this project. Funds have been allocated in the budget to undertake this project.
6. Urban design: in particular a review of DCP 6

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7. Dwelling entitlements: Whilst Council has prepared a DLEP to ensure that dwelling entitlements can be preserved, an application has been received from Elizabeth Ellis to restore an entitlement lost as a result of the creation of a new lot to accommodate a road improvement on Tyalgum Road. An amendment to the LEP is required to restore the entitlement. It is likely that there are significant numbers of other lots that have lost entitlements under similar circumstances, and therefore if a DLEP is commenced it is likely to attract other similar requests. Moreover, in terms of the North Coast REP PlanningNSW may require the completion of a Rural Settlement Strategy before such a DLEP could be prepared. It would also require an assessment of whether the lot is capable of accommodating a dwelling.

A further application has been received from Trevor Baker to provide a dwelling entitlement for a small lot at Dunbible. In support he has stated that: -

"I am writing to you in regards to a portion of ground, approximately $\frac{3}{4}$ of an acre between Stokers Siding Road and Kings Gully Road, which was cut off my farm some years ago by council for the realignment of Kings Gully Road.

This land has no grazing value to me, due to the realignment by council and the fact that the neighbour has constructed a dam causing the flow of water to cease to this portion of ground."

The Rural Settlement Strategy must be completed before this proposal could be considered.

8. Uki Village – medium density controls: DAP has recommended that the MSP investigate the desirability of preparing a DCP for the Uki Village that particularly addresses the heritage conservation classification of the Village.
9. LEP Housekeeping: The DES has engaged D Anderson to review the TLEP in terms of the approval process for public works on Council land. He has concluded that: -
- the LEP should be amended to facilitate the assessment of such proposals under Part 5 of the Act rather than Part 4
 - certain works should be included in DCP 40 Exempt and Complying Development
 - all land accommodating Council engineering assets should be zoned 5(a), and classified operational pursuant to the Local Government Act

The Management Plan includes other strategic items, which, whilst not the responsibility of the SPU, nevertheless they have been identified as critical strategic requirements for Council. And there is a significant overlap of some of these items. These include the following items for 2003/04, which are not currently in the SPWP: -

- Skate Park Strategy
- Beach Use Policy
- Review Open Space Policy, Strategy and Management Plans

Reports from Director Development Services

- Stormwater Development Control Plan
- Financial Strategic Plan

Ideally the SPWP should be determined annually following the finalisation of the Management Plan; and monitored through the mechanism offered by the Quarterly Report. This review of the SPWP is an ideal opportunity to integrate it with Council's recently adopted Management Plan 2003 – 2006 and Budget 2003.

2.2 Projects nominated outside Council

1. Rezoning proposal – Kirkwood Road, Tweed Heads South: This proposal has been submitted by the landowner to provide for additional industrial land
2. Rezoning proposal – Creek Street, Hastings Point: Council recently resolved to consider this request as a part of this review of the SPWP
3. Rezoning proposal – Aboriginal Land Council Fingal: This rezoning application was considered as part of the deliberations in respect of the previous review of the SPWP when Council resolved not to include it in the Program.
4. Uki Village – medium density controls:
5. Amend the definition of 'attached dual occupancy'.
6. Rezoning proposal – part of the West Murwillumbah Urban Release Area from 1(c) to 2(c) to enable more efficient use of the land and facilitate the proponents preparation of a master plan for the locality. This rezoning application was considered as part of the deliberations in respect of the previous review of the SPWP when Council resolved not to include it in the Program.
7. Land adjoining Kirkwood Road: A proposal has been received to rezone 26ha of Kirkwood from 6(b) Recreation to industrial/commerce and trade purposes.

3. REVIEW OF CURRENT PROJECTS

Appendix 3 sets out a status report on all current projects. The report is in two parts: -

- Part 1 - priority projects determined by Council, and
- Part 2 - a log of all LEP, DCP and S94 related work

4. DEFINED OUTCOMES OF PROJECTS

To achieve an effective SPWP a clearly defined outcome of projects is essential. The outcome of the majority of projects is self-explanatory (eg LEP amendments). However, with the passage of time, changing community aspirations and evolving Council expectations some of the projects may require re-definition, in particular the following.

Reports from Director Development Services

4.1 Tweed Coast Strategy; District Centre Strategy; Draft DCP 9 - West Kingscliff planning

The Programme includes a number of inter-related strategic projects dealing with coastal issues, particularly at Kingscliff, namely: -

- Tweed Coast Strategy;
- District Centre Strategy,
- Draft DCP 9 - West Kingscliff planning

To this must be added other strategic issues: heights of buildings, parking, traffic management. To adequately manage coastal growth the intent is to prepare a comprehensive strategy for the whole of the Tweed Coast; and detailed Locality Plan for specific areas including Kingscliff (incorporating West Kingscliff). The latter plans will be based on specific statements for identified precincts (eg Hungerford Lane) as well as broader statements for locality wide issues (eg parking). Whilst much of the essential analysis for this work has already been commenced, it has raised significant planning issues which need to be resolved, in particular the following: -

Firstly, retail development. Council resolved on 2 July 2003 that Council: -

1. *Determines it does not favour locating a district shopping centre of any kind (whether a traditional "big box" style or shopping centre or the town centre style of shopping centre) on Turnock Street, Kingscliff.*
2. *Makes this determination so that no further time and resources be spent on planning for it, making provision for it, or allowing its possible location on Turnock Street to influence any planning decisions."*

Intuitively the long term social and economic needs arising from population growth of the Tweed Coast includes a town centre of some sort. The consequences of Council's latest resolution means that it is not possible to prepare a comprehensive strategy for the Tweed Coast. Consequently: -

- Council, and the Tweed community will have no policy framework and hence be ill-prepared to deal with the inevitable proposals for such developments;
- It will not be possible to prepare comprehensive and meaningful Locality Plan; and

Moreover, this decision is at odds with the resolution at the same meeting to endorse,

"the general terms of the Consultant's Brief (Annexure 1) for the preparation of a Retail Strategy for the Tweed Shire to be forwarded to a minimum of three suitably qualified Consultants to submit proposals and quotations to respond to this Brief."

Secondly, the urgency to complete these projects. Development applications in critical locations of Kingscliff and Cabarita are anticipated shortly, for which an appropriate policy framework needs to be prepared.

Reports from Director Development Services

In order to meet short term needs and in the longer term create the essential comprehensive planning framework these projects have been re-structured as follows:

- Analysis of submissions in respect of the exhibition of the Tweed Coast Strategy draft DCP and report to Council in September for finalisation as an interim Plan pending the completion of outstanding issues (in particular town centre issues)
- Completion of outstanding issues to complete the Strategy
- Review of heights of buildings, view planes, and urban design in the area bounded by Hungerford/Seaview/Marine/Moss/Sutherland, targeted to be completed by end July. The findings to be included in a report to Council on draft DCP 44 in August. UDAS will be engaged to review the work.
- Preparation of parking strategy for Kingscliff, targeted for completion by September
- Completion of review of DCP 9 in respect of drainage, traffic, environmental management and Gales draft Master Plan; and preparation of draft DCP 9 amendment for submission to Council in September.
- Review of DCP 43, targeted for completion by September
- The one issue that to date has not been addressed in any detail concerns community facilities. RS will provide an assessment of local needs and relate this to existing community facilities and S94 Plans. Targeted for completion August
- Preparation of integrated DCP 9, DCP 43 and DCP 44 into a comprehensive document to be reported to Council in November
- Cabarita DCP
- Pottsville DCP – to be discussed later

4.2 Rural Settlement Strategy; Rural Land Use Study

The LEP Advisory Committee has resolved that the Director Development Services bring forward his recommendation for proposed areas for rural settlement by Council. The understanding with the Committee is that the Rural Settlement Strategy project has two Stages:-

Stage 1: the establishment of the planning principles for rural settlement in the Tweed

Stage 2: the preparation of appropriate planning controls: -

- For nominated areas for clustered rural residential subdivision; and
- For dispersed rural subdivision in 6 identified broadly based localities.

The clustered element is to be based on the draft rural strategy already prepared by the SPU. Stage 2 will be undertaken by consultants. A consultant's brief has been prepared for presentation to the Committee. Assuming the brief is acceptable to the Committee it will be reported to Council.

There is one outstanding component of the project: namely illegal dwellings. SPU will identify all relevant issues formulate options and identify a preferred strategy for consideration by Council for incorporation into the Rural Settlement Strategy.

Reports from Director Development Services

Council has not formally responded to the TEDC Rural Land Use Study. Whilst the Study will be an input into the Rural Settlement Strategy a comprehensive Council report on the Study is also required.

4.3 Review of the Tweed Shire 2000+ Strategic Plan

It is becoming increasingly important that Council has a more relevant statement of its planning strategy than that presented in the Tweed Shire 2000+ Strategic Plan (TSP), which was adopted in 1996.

The review is in part dependant on the completion of some of the other priority projects, and in part the availability of resources.

4.4 Vegetation Management Strategy; draft LEP/DCP

A Draft DCP on Bushland Management is required to be prepared, which has yet to be programmed

4.5 Economic Development Strategy

The initial Economic Development Strategy was one of those projects with no initial guidelines available to the Unit. Whilst the Strategy met the then requirements of the project, a review and possible re-format of the Strategy is required. The basis of this should be a Working Group between Council and TEDC, with terms of reference to re-draft the 3 year Tweed Economic Development Strategy and present it to Council. The resultant Strategy should: -

- Identify economic development responsibilities and projects undertaken or to be undertaken by either Council or TEDC.
- Include a costed budget for identified projects
- Establish clear linkages to Council's Management Plan and TEDC's Strategic Plan

4.6 Significant projects not included in the SPWP

Resources have been provided to the following projects as available:-

- ***Comprehensive Coastal Assessments – Tweed Pilot Study.*** *The Tweed has been chosen as a pilot. The CSP is currently liaising with Comprehensive Coastal Assessments (CCA) Technical Committee. Outcomes are likely to have substantial implications for future land use strategies along the Tweed Coastal Catchments, and will possibly provide a 'Sustainability audit' of existing development within the CCA Pilot study area and potential impacts of 'change of landuse scenarios':*
 - Socio-economic audits and trends
 - Regional Landscape assessment/ scenic amenity
 - Geology (including review of ASS mapping)
 - Soil Landscape Hazards and Risks

Reports from Director Development Services

- Modelling landuse impacts on water quality/aquatic ecology
- Biodiversity modelling and impact of landuse scenarios.
- ***Retail Strategy.*** A brief has been sent to three consultants to prepare a retail strategy.

5. CONCLUSIONS

This review has highlighted a number of potential projects for inclusion in the SPWP. However there is not the resources to include additional items. Therefore the program should remain as agreed by Council on 19 February 2003.

Reports from Director Development Services

APPENDIX 1

CURRENT STRATEGIC PLANNING WORK PROGRAMME

On 19 February 2003 Council resolved that: -

“the following projects be endorsed as the Strategic Planning Work Program priorities for the period until the first quarterly review of the 2003/2004 Management Plan:

- *Tweed Coast Strategy and District Centre Strategy*
- *West Kingscliff planning – draft DCP9*
- *Rural Settlement Strategy and Rural Land Use Study*
- *Local Environmental Studies and draft Local Environmental Plans for:*
 - a) *Kings Forest*
 - b) *Black Rocks*
 - c) *Chinderah*
 - d) *South Pottsville; and*
 - e) *“Area E”, Terranora*
 - f) *Tanglewood*
- *DCP Koala Beach*
- *Various draft LEP Housekeeping and other amendments*
- *Economic Development Projects:*
 - o *Kingscliff Sewage Treatment Plant rezoning*
 - o *Industrial lands*
 - o *Coolangatta Airport*
- *Review of the Tweed Shire 2000+ Strategic Plan*
- *Human Services Delivery Plan*
- *Banora Point Community Centre*
- *Public Transport Plan*
- *Flood Management*
- *Residential Development and Housing Affordability Strategies*
- *Bushfire Hazard DCP*
- *South Kingscliff Tourism site*
- *Vegetation Management Plan and accompanying LEP*
- *Crime Prevention Plan*
- *Community Facilities Policy and Program*
- *Coastal Hazard Policy*
- *Draft LEP preparation for Leisure Gardens, Pottsville (including possible school site)*

Reports from Director Development Services

- *Development Control Plan for Cabarita*
- *Draft LEP preparation for reclassification of Council land”*

Reports from Director Development Services

APPENDIX 2 MANAGEMENT PLAN PRIORITIES

MANAGEMENT PLAN IDENTIFIED PROJECT	MANAGEMENT PLAN TARGET	IN CURRENT SPWP
Shire-wide Strategies		
Residential Development Strategy	Adopt – June 2004	Yes
Rural Settlement Strategy	Adopt – June 2004	Yes
Rural Settlement DLEP		
Residential Development Strategy		Yes
Tweed Coast Strategy		Yes
Strategic Plan Review	Review and adopt – June 2004	Yes
Community Development		
Social Plan		Yes
Crime prevention OR community Safety Action Plan	Adopt - June 2004	Yes
Community profile		No
Human Services Delivery Plan	Adopt - June 2004	Yes
Community Infrastructure Policy and Program	Adopt - June 2004	Yes
Public Transport		Yes
Affordable housing		Yes
Economic Development		
Economic Development Strategy		Yes
Lot 490	Adopt - June 2004	Yes
Retail development strategy	Adopt - June 2004	No
Industrial Land Release Program		No
DLEP – W Tweed Heads	Submit to Minister – June 2004	Yes
DLEP – Industrial land, Fernvale	Submit to Minister – June 2004	Yes
DLEP – Melaleuca Station	Submit to Minister – June 2004	Yes
Tourism Industry Infrastructure Development Strategy	Develop – June 2004	No
DCP Performance based Criteria for Employment generating Development	Adopt – June 2004	No
Environmental Management		\$10,000
Threatened Fauna Management Plan		No
Vegetation Management Plan	Submit draft LEP to Minister – June 2004	Yes
Stormwater DCP	Draft – June 2004	No
Community Heritage Study		No
Maintenance of Tweed LEP/DCPs/S94 Plans		On-going

Reports from Director Development Services

Locality Plans		
Kingscliff DCP/S94 Plan	Adopt – June 2004	Yes?
Pottsville DCP/S94 Plan	Adopt – June 2004	No
Cabarita DCP	Adopt – June 2004	Yes
Rural Villages Development Strategy		No
Kings Forest	Submit to Minister – June 2004	Yes
Terranora Area E	Submit to Minister – June 2004	Yes
Tweed LEP Review Program	On-going	On-going

Reports from Director Development Services

APPENDIX 3

STRATEGIC PLANNING UNIT WORK PROGRAM (as at 4.8.03) - AUDIT OF PROJECTS

A. PRIORITY PROJECTS AGREED BY COUNCIL

Project	Work required to complete
Tweed Coast Strategy and District Centre Strategy Draft DCP 9 - West Kingscliff planning	Tweed Coast Strategy DCP on exhibition No further work to be undertaken on District Centres Strategy DCP 9 being reviewed
Rural Settlement Strategy and Rural Land Use Study	Report to be presented to LEP AC setting out recommendations on how to proceed based on earlier work by SPU, TEDC Rural Viability Study and specific localities Council has not formally responded to the TEDC Rural Land Use Study. To do so a report would have to be prepared
Environmental Studies and draft Local Environmental Plans Black Rocks	Legal agreement executed and DLEP to be submitted to Minister
Review of Chinderah planning	No work commenced to date
Environmental Study and draft Local Environmental Plans Area E, Terranora	Consultants commenced work
Environmental Study and draft Local Environmental Plans Tanglewood	Council resolved to prepare DLEP
Environmental Study and Draft LEP - Leisure Gardens, Pottsville (including possible school site)	Review of proposal and S54 report to be prepared.
Koala Beach	1. Amendment to DCP to be prepared following determination of Stage 5 and 6 d/a 2. Amendment to Deed of Agreement to be finalised

Reports from Director Development Services

Project	Work required to complete
Various draft LEP Housekeeping and other amendments	Various matters nearing completion, no further items in the pipeline
Kingscliff Sewage Treatment Plant rezoning	GeoLINK engaged to undertake project
W Tweed Heads Industrial Rezoning	Responses to Consultants brief for preparation of ES and DLEP being reviewed. Meeting to be arranged with landowners on funding
Review of the Tweed Shire 2000+ Strategic Plan	Brief for facilitator prepared
Human Services Delivery Plan	Consultant commenced peer review. Population projections yet to be included in final document
Banora Point Community Centre	Sketch design accepted by Council, MEH to complete the project
Public Transport Plan	Draft Plan prepared, to be considered by EMT
Flood Management	No work to date. Project would require major input from Manager Water
Residential Development and Housing Affordability Strategies	Draft documents being prepared
Bushfire Hazard DCP	Bushfire Risk Management Cttee engaged consultants to undertake Bushfire hazard mapping, Draft DCP to follow
Lot 490 South Kingscliff Tourism site	Amended DCP being prepared following Council resolution
Vegetation Management Plan and accompanying LEP	Draft LEP instrument and DCP 40 amendment finalised by Vegetation Management Committee. Zone maps to be finalised
Crime Prevention Plan	Project commenced in July 2003
Community Facilities Policy and Program	Draft document prepared but not finalised
Coastal Hazard Policy	Awaiting consultant's recommendations on planning options

Reports from Director Development Services

Project	Work required to complete
Development Control Plan for Cabarita	Project commenced in July 2003
Draft LEP - reclassification of Council land	<ul style="list-style-type: none"> • Prepare S54 report, with particular reference to the land zoned for car park at Hastings Street, Cabarita. • Engage consultant to undertake the project
Kings Forest	<ul style="list-style-type: none"> • Awaiting transfer of land to LEDA
Seaside City	Consultant's brief being prepared and agreed with PlanningNSW and DLG to complete the project

B. OTHER PROJECTS WHICH HAVE BEEN ACCOMMODATED

Project	Progress/Comments
1. Strategies	
Retail Strategy	Brief sent to 3 consultants
2. S94 Plans	
Surf Life Saving Strategy	Responses to consultants being reviewed.
3. Development Control Plans	
Flood Policy	<ol style="list-style-type: none"> 1. Report to Council to be prepared to correct errors in implementing Council's previous resolution 2. Minor amendments to DCP 5 to be prepared to reflect adjustments to flood levels 3. Major review of DCP 5 because of revised NSW Flood Plain Management Manual. No work to date
Bushfire Hazard Control DCP	Bushfire hazard mapping being undertaken by consultants
DCP 40 – Exempt and Complying Development	DLEP exhibited, further amendments to DCP 40 on exhibition

Reports from Director Development Services

Project	Progress/Comments
DCP 3 - Banora Point (Lake Kimberley)	Council resolution to amend in accordance with DLEP 39. Notice to bring into effect following gazettal of LEP Amendment No 39
DCP 51 – Tweed Coast Strategy	Currently on exhibition
DCP 48 – Height of Buildings	Draft exhibited, Council workshop on 23/7, report to Council being prepared
DCP 39 – Energy Efficient Housing	Draft exhibited, Council resolved to defer until October
DCP44 – Dual Occupancy Controls	Draft amendment being prepared for exhibition
DCP 17 – Cobaki Lakes	Council resolution to amend in accordance with TLEP Amendment No 2. No work to date
DCP 21 – Searanch	Council resolution to amend. No work to date
DCP – Friday Island	Draft being prepared for exhibition
4. Tweed LEP Amendments	
Cobaki Lakes Review (Amendment No 2)	Submitted to Minister
Bogangar Release Area (Amendment No 7).	Amendment divided into two elements. Consultants engaged to prepare DLEP for Sites 1 and 2 at proponents cost (Glazebrook); funding requested to engage consultants for sites 3 and 4
Black Rocks, Pottsville. (Amendment No 8)	Legal Agreement executed and DLEP submitted to Minister
Industrial land, South Murwillumbah (Amendment No 9)	Proponents requested to fund preparation of draft LEP and Environmental Study. No response following acquisition by proponents of Wardrop Valley land.
Area E, Terranora (Amendment No 10)	Consultants engaged to prepare comprehensive planning framework

Reports from Director Development Services

Project	Progress/Comments
Kingscliff STW (Amendment No 14)	Consultants engaged to prepare ES and DLEP
Deferred Area, Chinderah Road, Cudgen (Amendment No 19)	Exhibition completed and project deferred for inclusion in W Kingscliff project.
Proposed Highway Service Centre (Amendment No 23)	Consultants engaged to prepare ES and DLEP
Housekeeping (Stage 2) – Exempt and Complying Development (Amendment No 26)	DLEP exhibited, further amendments to DCP 40 exhibited
Mooball Road, Pottsville – proposed 3(c) Commerce and Trade (Amendment No 29)	Objections from Coastal Council and NPWS. Proponent investigating alternative developments for the property.
Dwelling entitlements, Uki (Amendment No 30)	PNSW required Rural Settlement Strategy to support the amendment. Council resolved on 4/6 to request PNSW to reconsider.
Housekeeping Stage 1 (Administrative LEP Anomalies) (Amendment No 31)	Council resolved to submit to Minister
Terranora Lodge, Terranora (Amendment No 34)	Submitted to Minister
Caravan Park, Dry Dock Road (Amendment No 35)	S54 notification and s62 consultations undertaken. Awaiting traffic study from proponent
Building entitlement, Kyogle Road, Uki (Amendment No 36)	Submitted to Minister

Reports from Director Development Services

Project	Progress/Comments
Tweed Heads West Industrial Area (Amendment No 37)	Responses to Consultants brief for preparation of ES and DLEP being reviewed. Meeting to be arranged with landowners on funding
Subdivision Controls (Amendment No 38)	Submitted to Minister
Housekeeping Stage 2 – Lake Kimberley (Amendment No39)	Submitted to Minister
Housekeeping Stage 2 – General Amendments (Amendment No41)	S54 notice sent to PlanningNSW
Dwelling Entitlement, Piggabeen Road, THW (Amendment No43)	Submitted to Minister
Creek Street, Hastings Point (Amendment No 44)	ES and DLEP exhibited
Dwelling entitlements (Amendment no 45)	Submitted to Minister
Building Heights (Amendment no 46)	DLEP exhibited and submissions being reviewed. To be reported to Council
Master Plans (Amendment No 47)	Council report following exhibition prepared. To be reported to Council
Tanglewood	S54 resolution submitted to PNSW
Black Rocks	S54 resolution submitted to PNSW
Cudgen deferred areas	S54 resolution submitted to PNSW

Reports from Director Development Services

4. ORIGIN: Development Assessment Unit

FILE REF: GS4/94/194 Pt11; Application to Modify Consent

REPORT TITLE:

Development Application 0130/2001S96 for an Amendment to Development Consent S94/194 for a Proposed 730 Lot Urban Subdivision at Lot 54 DP 755740 Old Piggabeen Road, Cobaki Lakes

SUMMARY OF REPORT:

An application has been received seeking various modifications to Consent S94/194.

Conditional development consent S94/194 for the subdivision of the abovementioned land known as Cobaki Lakes into 730 residential lots was issued 19 September 1995.

The proposed modifications relate to conditions 1(a), 2(a), 2(c), 30(ii), 30(iii), 31(i), 34(i), 83, 117, 124, 138, 187, 236, 285 and 334 of the consent.

A description of each proposed modification is provided in the report together with comments.

Most of the proposed modifications are generally supported, with the exception of conditions 117 and 124, which are not.

Relevant legal advice is contained in a Confidential Attachment to this Business Paper.

RECOMMENDATION:

That Development Application 0130/2001S96 for an amendment to Development Consent S94/194 for a proposed 730 lot urban subdivision at Lot 54 DP 755740, Old Piggabeen Road, Cobaki Lakes be approved and Consent S94/194 be amended as follows: -

1. Amend condition 1(a) to include reference to "*amended plans No. 2764/1-3 A & 2764/1-3 B2 prepared by Cardno MBK*".
2. Amend condition 2(a) to read as follows: -
 - (a) *No linen plan, which creates individual residential lots, shall be released until documentary evidence is submitted by the applicant from City of Gold Coast and Queensland Transport certifying that the Boyd Street connection has been constructed to the satisfaction of the City of Gold Coast and Queensland Transport. The applicant shall comply with its obligations under a Deed entered into by it with the Council of the City of Gold Coast dated 8 July 1993 and with its obligations under an agreement entered into by it with the State of Queensland acting through the Department of Main Roads dated 3 February 1997, and with any amendments to these agreements agreed to in writing by the parties.*
3. Amend condition 2(c) to read as follows: -
 - (c) *The applicant shall comply with its obligations under a Deed entered into by it with the Tweed Shire Council dated 6 August 1993 and with any amendments thereto agreed to in writing by the parties. The applicant is permitted to use the Overpass Bond referred to therein as equity against the Section 94 Plan No. 4 cash contribution requirements nominated elsewhere in this consent.*

Reports from Director Development Services

4. Amend Condition 30(ii) to read as follows: -
 - (ii) *The sewerage network shall be designed in accordance with DCP 16, specifically clause 9 and 17, or such other current criteria as may be approved by Council. The following design criteria shall apply:*
 - *Average Dry Weather Flow – 0.008 l/s per treatment (based on 3 equivalent person per treatment);*
 - *Storm allowance:*
 - 0.058 l/s tenement residential lots*
 - 0.030 l/s tenement duplex lot*
 - 0.030 l/s tenement for town houses*
 - 0.020 l/s tenement for apartments*
 - *Allow PWD criteria for commercial areas.*
5. Amend Condition 30(iii) to read as follows: -
 - (iii) *The sewerage network shall discharge to Gollan Drive pump station (No.18) if connected to the Tweed Shire Council system. The applicant shall submit engineering drawings for approval of the sewer rising main for the site to Gollan Drive by the Director of Engineering Services.*
6. Amend Condition 31(i) to read as follows: -
 - (i) *In conjunction with release and registration of the first linen plan of subdivision, the applicant shall dedicate 6.88ha (1,286 lots @ 50m² per lot) as active open space ie, 4ha being lot 15 on plan 6400-64C and 2.88ha adjacent to the primary school site (ie, Parcel 13), or in such alternative location(s) as may be approved by Council.*
7. Amend Condition 34 to read as follows: -
 34. (i) *Deleted.*
 - (ii) *Prior to release of the first linen plan of subdivision, the applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No.10 for Cobaki Lakes for a lot threshold of 1,000 lots (ie, table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities based on the approved estimated cost of the work.*
8. Amend Condition 83 to read as follows: -
 83. *The provision of controlled stormwater drainage along Piggabeen Road to prevent ponding prior to linen release for Stages 7, 8, 9 and 10.*
9. Amend Conditions 138, 187, 236, 285 & 334 to read as follows: -

“Multi purpose trails, bikeways or shared pedestrian/bikeway paths shall be provided in accordance with a plan submitted to, and approved by Council, and shall be in accordance with Austroads Part 14, Bicycles of the current equivalent.”

Reports from Director Development Services

REPORT:

Applicant: Cardno MBK Qld Pty Ltd

Owner: Tweed Shire Council & Leda Manorstead Pty Ltd

Location: Old Piggabeen Road & Lot 54 DP 755740, Old Piggabeen Road

Zoning:

Cost: Nil

BACKGROUND

Conditional development consent S94/194 for the subdivision of the abovementioned land known as Cobaki Lakes into 730 residential lots and 13 englobo parcels was issued 19 September 1995. The 730 residential lots are to be developed on five of the englobo parcels being parcels 1-5.

The consent has been amended on three other separate occasions. The most recent modification was issued on the 2 August 1996.

The applicant has now submitted a further application under Section 96 of the Environmental Planning and Assessment Act, 1979 requesting further modification to the consent. The applicant has provided that as part of the preparatory process toward a meaningful Development Programme, they wish to review and update all existing consents, having regard to various changed circumstances and more accurate survey and design of the various site-specific components.

DETAILS OF MODIFICATIONS SOUGHT.

Modification to the following conditions of consent S94/194 are sought with comments provided.

1. Condition 1(a)

Condition 1(a) refers to the approved plans and Statement of Environmental Effects. The applicant requests condition 1(a) to be modified to include reference to Cardno MBK Drawing 2764/1-3 A.

To support this modification the applicant has provided the following.

“The applicant has provided that this modification entails the minor re-alignment of Cobaki Parkway at ch.2600, as shown on the submitted plans, which was found to be desirable following completion of the Parcel 1 Bulk Earthworks. The original lots 1 to 11 inclusive were found to be too shallow, given the topography, and their proximity to the Parkway. The proposed realignment will provide a greater depth and area to these lots, which can be further improved by additional site grading.

The maximum offset is 30 metres at the “worst case” as shown on the plans, and the following factors are also relevant:-

- (a) The proposed re-alignment still provides ample room for the approved water quality basins, as demonstrated on the plans.*
- (b) There is no significant vegetation within the additional road corridor. The plan shows the location of existing trees, defined by survey.*
- (c) There are no geotechnical impediments to the proposal.*
- (d) The proposal will provide a greater distance between the rear of the lots and the Parkway than the original.*

Reports from Director Development Services

- (e) *No additional lots are achieved by the proposal.*
- (f) *The proposal does not create any significant amendments to the Civil Works or servicing, as approved."*

Comment

The justification provided by the applicant to have this condition amended is reasonable and is supported. It is considered that the re-alignment in this instance will improve those lots affected being 1 to 11 by providing additional area to each lot in most cases. In addition the re-alignment will provide greater distance between the lots and the parkway, which is desirable. No additional lots are created and no adverse impacts are expected on the natural environment.

It is considered that this re-alignment of Cobaki Parkway in this instance is relatively minor.

Council's Engineer has assessed this proposed modification and raises no objection subject to the inclusion of drawing No. 2764/1-3 A in condition 1(a). The realignment of the Parkway at ch2600 as shown on drawing 2764/1-3 "A" would improve the acoustic buffer between the Cobaki Parkway and allotments 1 to 11.

The applicant also proposes a further modification to condition 1(a) to include Cardno MBK Drawing No. 2764/1-3 B2.

To support this modification the applicant has provided the following.

"This modification entails the further re-alignment of the Parkway at the Town Centre intersection between chainages 3250 and 3700, to create a maximum shift, at the intersection, of about 40 metres, as shown.

The purpose of the shift is to delete an unnecessary bend in the alignment at Ch3250, on the approach to Roundabout No. 2, which will, in turn, provide better sight distance and approach road gradients, especially in relation to Sandy Lane.

Neither enquiries made with Council's Engineer, nor the records of Leda Manorstead Pty Ltd, have indicated any criteria for the original alignment of the Parkway in this location, and there would appear to be no reason why the proposed realignment would not be acceptable, in regard to which the following points are made:

- (a) *The nature of the land along the proposed realignment is identical to the original. I.e. Open Grassland.*
- (b) *There are no geotechnical impediments to the proposed realignment, as evidenced by the attached report from Bowler Geotechnical Pty Ltd dated 8/2/2001, also marked "B".*
- (c) *The amended alignment contains no trees or other significant vegetation.*
- (d) *The proposed re-alignment maintains the integrity of the buffer between the Road and adjoining land and in no way comprises the installation of the approved erosion and sediment control measures.*
- (e) *There are no zoning or engineering implications raised by the proposal.*
- (f) *The proposal is not against the public interest."*

Reports from Director Development Services

Comment

Again the justification provided by the applicant to have this condition amended is reasonable and is supported. It is considered that the re-alignment in this instance will improve the alignment of the Parkway and improve sight distance and road gradients.

The results of the geotechnical report prepared by Bowler Geotechnical Pty Ltd confirms that there appears to be no geotechnical impediment for the re-location of the Parkway within this area.

Again it is considered that the proposed realignment in this instance is relatively minor and is not likely to create any significant adverse impacts on the natural environment.

Council's Engineer has assessed this proposed modification and raises no objection subject to the inclusion of drawing No. 2764/1-3 "B2" in condition 1(a). The re-alignment of the Parkway between chainages 3250 and 3700 by approximately 40 – 50 metres raises no engineering concerns.

2. Condition 2(a)

The applicant wishes to amend condition 2(a) to include the words "which creates individual residential lots" to be inserted after "No linen plan" in the first sentence.

In addition the applicant also proposes to replace the second sentence of this condition with the following;

"The applicant shall comply with its obligations under a Deed entered into by it with the Council of the City of Gold Coast dated 8 July 1993 and with it's obligations under an agreement entered into by it with the State of Queensland acting through the Department of Main Roads dated 3 February 1997, and with any amendments to these agreements agreed to in writing by the parties."

To support the proposed modification to the first sentence of this condition the applicant has provided the following;

"In its present form, Condition 2(a) would effectively prevent any Linen Plan being released for a special purpose, not being residential lots. These purposes could include, but are not limited to:

- (a) Lots for a Public purpose. Eg. Public Open Space, Wetland rehabilitation, drainage, reserves etc.*
- (b) Boundary adjustments.*
- (c) Creation of road reserves or road widening etc. Whilst no such Linen Plan is currently contemplated it is considered that condition 2(a) should be sufficiently flexible to permit same without comprising the intent thereof."*

To support the modifications to the second sentence of this condition the applicant has provided the following;

"Firstly it appears that the present conditions intended to call up in summary way the key terms contained in the agreements referred to. However, in their existing form the conditions hold the potential, under some circumstances for being in conflict with the terms of those agreements or are otherwise insufficient in relation to the detailed provisions contained in those agreements."

Reports from Director Development Services

Secondly, the proposed amendments will obviate the need for any future S96 application for further amendments to Clause 2 in the event of amendments to the Gold Coast City Council, Tweed Shire Council and/or Department of Main Roads agreements becoming necessary."

Comment

Condition 2(a) refers to the construction of the Boyd Street extension within Queensland.

Condition 2(a) currently reads as follows;

"2. Boyd Street Extension – Queensland

(a) No linen plan shall be released until documentary evidence is submitted by the applicant from City of Gold Coast and Queensland Transport certifying that the Boyd Street connection has been constructed to the satisfaction of the City of Gold Coast and Queensland Transport. The applicant shall meet all costs associated with these works."

In relation to the proposed amendment to the first sentence of condition 2(a) being the inclusion of the words "which creates individual residential lots" after the words "No Linen Plan", the reasons provided by the applicant are justified and this is considered to be reasonable and is supported.

Council's Engineer has assessed this modification and raises no objections.

It is considered that this modification is minor and does not raise any significant implications.

In relation to the proposed amendment to the second sentence of condition 2(a) this is also considered to be reasonable and no objection is raised.

Again Council's Engineer has assessed this modification and raises no objection.

The condition will now refer the obligations under a Deed entered into by it with the Gold Coast City Council and the applicant dated 8 July 1993 and with its obligations under an agreement entered into by it with the State of Queensland acting through the Department of Main Roads dated 3 February 1997.

It is considered that the modified condition will still achieve the same objective as the current condition and is further strengthened by reference to those Deeds.

Council has also sought legal advice in relation to the proposed amendments to conditions 2(a) and 2(c), which is provided following 2(c) below. Generally, Council's Solicitors raise no objections to these proposed modifications.

3. Condition 2(c)

Condition 2(c) refers to the construction Boyd Street overpass bridge over the proposed Motorway.

The applicant wishes to modify condition 2(c) to be replaced by the following;

"The applicant shall comply with its obligations under a Deed entered into by it with the Tweed Shire Council dated 6 August 1993 and with any amendments thereto agreed to in writing by the parties. The applicant is permitted to use the Overpass Bond referred to therein as equity against the Section 94 Plan No. 4 cash contribution requirements nominated elsewhere in this consent."

Reports from Director Development Services

To support the proposed modification the applicant has provided the following;

“Firstly it appears that the present conditions intended to call up in summary way the key terms contained in the agreements referred to. However, in their existing form the conditions hold the potential, under some circumstances for being in conflict with the terms of those agreements or are otherwise insufficient in relation to the detailed provisions contained in those agreements.

Secondly, the proposed amendments will obviate the need for any future S96 application for further amendments to Clause 2 in the event of amendments to the Gold Coast City Council, Tweed Shire Council and/or Department of Main Roads agreements becoming necessary.”

Comment

Condition 2(c) currently reads as follows;

“(c) The applicant shall construct the Boyd Street overpass bridge over the proposed Motorway. However, Council will assume responsibility for design and construction of this facility provided the applicant enters into a bond to the value of \$1.57M (as reviewed from time to time) which will be cashed to fund the construction of the abovementioned bridge and approach upon the request of the RTA. This bond is the one and the same bond referred to in Condition 10 of the consent to D/A 92/315. The applicant is permitted to use this bond as equity against the S94 Plan No. 4 cash contribution requirements nominated elsewhere in this consent.”

Council’s Development Engineer has assessed this proposed modification and no objection is raised.

The Deed provides that Council is responsible for the cost of design, approval and construction of the Boyd Street Overpass and the relevant interchanges. This contradicts the current condition, which requires the applicant to construct the Boyd Street Overpass. But the Deed also provides that the applicant will contribute the sum of \$1,570,000 (Overpass Contribution) towards the costs of constructing the Boyd Street Overpass and that this sum will be reviewed based on the current estimate of the cost of undertaking the works at the time.

The Deed also provides that the applicant prior to commencing works deliver to Council a bond for a sum equivalent to the overpass contribution as security for the performance by the applicant of its obligation to make the overpass contribution. The applicant can use this bond as equity against the S94 Plan No.4 cash contribution requirements.

It is considered that reference to the Deed of Agreement between Tweed Shire Council and the applicant dated 6 August 1993 in the modified condition is generally consistent in its objectives with the current condition.

It is considered that the modified condition will still achieve the same objective as the current condition and is further strengthened by reference to these Deeds. The justification by the applicant to vary this condition is reasonable and should be supported.

Legal Advice for proposed modifications to Conditions 2(a) & 2(c).

The proposed modification to Conditions 2(a) and (c) was referred to Council’s Solicitors to provide legal advice on the possible implications the amendments may have. In this regard the legal

Reports from Director Development Services

advice provided indicates that there are no legal objections to the amendments sought to conditions 2(a) and 2(c) as proposed by the applicant to consent S94/194.

It is considered that there is no contravention or prejudice to the Deeds of Agreement between the company and the State of Queensland and no doubt some of the matters raised by the DMR (see below) are more to do with duties and obligations that may arise from the Queensland agreements which do not directly affect either the Development Consent being considered by the Council nor the Tweed local Government as a whole.

In respect of the matters relating to the agreement with Council the solicitors note that when they negotiated this agreement on behalf of Council it was anticipated that sooner rather than later the arterial bypass road known as the Western Bypass was to be constructed. This would have necessitated Council in constructing an overpass of two or more lanes known in the Deed previously referred to as the Boyd Street (NSW) Extension.

The Western Bypass is never likely to be constructed and therefore Council will not be required to construct the "Boyd Street Overpass".

Therefore the retention by the Council of the Bond is somewhat problematical.

Therefore Council's Solicitors do not believe there are any legal objections to the amendments sought to Conditions 2(a) and (c) as proposed by the applicant.

In respect to condition 2(a) and (c) the modified proposals were also referred to QLD Main Roads and the RTA for comment. Their comments are provided below.

QLD Department of Main Roads

"Queensland Department of Main Roads does not agree with the proposed amendments. Our reasons are based on those stated in our letter dated 20 May 2002. These are:

- 1. The amendments could contravene and/or prejudice the Deed of Agreement between the State of Queensland and Leda Manorstead Pty Ltd, the developers of Cobaki Lakes, dated February 1997.*
- 2. Queensland Department of Main Roads will bear no costs arising from permitting access from this development to Queensland. This position applies to all means of access including the proposed overpass to Boyd Street over the Tugun Bypass Road.*

We respond with specific advice about the letter from Cardno MBK to Tweed Shire Council dated 10 September 2002 as follows:

- a) Condition 2(a). We would not agree to the words "which creates individual residential lots" being inserted after "no linen plan" in the first sentence. Section 1(a)(ii) states that the "Initial layout is to be constructed prior to the beginning of development of Cobaki Lakes". We interpret "development" to mean works of any kind for the project, including early works not specifically related to the creation of individual residential lots.*

Reports from Director Development Services

- b) Condition 2(a), second sentence. The second sentence needs to remain. However, we would have no objection to the suggested wording being inserted as a follow-on in an additional sentence as follows:

“The applicant shall meet all costs associated with these works in accordance with its obligations under a Deed entered into it by it”

- c) Condition 2(c). In regard to this condition, Main Roads requests written advice from Council whether or not Council will continue to require the developer to build the Boyd Street Overpass. We reiterate that we will provide no funds towards this infrastructure and advise Council that this consideration should be reflected in the development consent.

As already advised in our previous letter of 20 May 2002, Main Roads interprets condition 2(c) as conveying to Tweed Shire Council responsibility for ensuring full provision of the Boyd Street/Tugun Bypass bridge, with the developers contribution remaining capped at \$1.57m.

Council is reminded that the cost of the overpass could be significantly greater than the \$1.57m estimate stated in the current development consent. The bridge would need to be 4-lanes with approaches and provide for 5.8 metre clearance to the motorway. Please note that there is no current planning provision for construction of an interchange off the proposed Tugun Bypass giving access to Boyd Street or to Cobaki Lakes development.”

Roads & Traffic Authority

“The Roads and Traffic Authority (RTA) would have no objection to the modification of development consent condition 2C S94/194 provided the interests of the RTA are protected in that the Boyd Street overbridge of the Tugun Bypass and Boyd Street connection are to be constructed at no cost to the RTA.”

4. Condition 30(ii)

Condition 30 relates to the sewer design standards.

The applicant wishes to modify this condition as standards are constantly subject to amendment and updating and it would be in the interest of all parties if Condition 30(ii) was extended to permit compliance with Standards current at the date of implementation.

The applicant therefore requests that the condition be modified to include the following words at the end of the condition.

“or such other current criteria as may be approved by Council”

Comment

Condition 30(ii) currently reads as follows;

“30(ii) The sewerage network shall be designed in accordance with DCP 16, specifically clause 9 and 17. The following design criteria shall apply:

- *Average Dry Weather Flow – 0.008 l/s per treatment (based on 3 equivalent person per treatment);*

Reports from Director Development Services

- *Storm allowance:*
 - 0.058 l/s tenement residential lots
 - 0.030 l/s tenement duplex lot
 - 0.030 l/s tenement for town houses
 - 0.020 l/s tenement for apartments
- *Allow PWD criteria for commercial areas.”*

Council's Development Engineer considers that this proposal has merit however the following modification is preferred;

Amend the sentence “*The following design criteria shall apply*” to “*The following design criteria (or other design criteria approved by the Director Engineering Services) shall apply.*”

However, at a meeting held between the representatives from Council and the applicant on 13 June 2002 it was agreed that the applicant's proposal is reasonable and accepted.

Therefore the proposed amendment to Condition 30(ii) as proposed by the applicant is reasonable and is supported.

The second sentence of condition 30(ii) will now read, “*The following design criteria shall apply or such other current criteria as may be approved by Council.*”

5. Condition 30(iii).

This condition relates to the approved sewer discharge point.

The applicant provides that this condition specifies the point of connection to the external sewerage network, but ought to be clarified to cover the possibility of the initial sewerage network being conveyed to Queensland.

The applicant therefore requests that the words “*if connected to the Tweed Shire Council system*” be added to precede Condition 30(iii) as printed.

Comment

Condition 30(iii) currently reads as follows;

“*30(iii) The sewerage network shall discharge to Gollan Drive pump station (No.18). The applicant shall submit engineering drawings for approval of the sewer rising main for the site to Gollan Drive by the Director of Engineering Services.*”

Council's Development Assessment Engineer has assessed this modification and raises no objection. The modified condition will allow flexibility should the connection be made to Queensland.

However, Council's Engineer has recommended that condition 30(iii) be modified to include the words “*if connected to the Tweed Shire Council system*” after the words “*station (No.18)*”.

6. Condition 31(i).

This condition relates to the dedication of active open space.

Reports from Director Development Services

The applicant argues that this condition specifies the location of Active Open Space Areas, but is inflexible as printed and makes no allowance for possible alternative sites as may be agreed to by Council during the development process.

To introduce some flexibility in this condition, the applicant requests that the words “*or in such alternative location(s) as may be approved by Council*” be added at the end of condition 31(i) as printed.

Comment

Condition 31(i) currently reads as follows;

“31(i) *In conjunction with release and registration of the first linen plan of subdivision, the applicant shall dedicate 6.88ha (1,286 lots @ 50m² per lot) as active open space ie, 4ha being lot 15 on plan 6400-64C and 2.88ha adjacent to the primary school site (ie, Parcel 13).*”

The reason provided by the applicant to justify the modification is reasonable and is supported. The modified condition will certainly provide flexibility for the location of the open space but will still ensure that a suitable amount of active open space is dedicated.

7. Condition 34(i).

This condition relates to the dedication of all land for Community Facilities.

To support the modification to this condition the applicant has provided the following;

“It is submitted that this condition is totally impracticable. At least one of the approved Community Facility lots is some 4km from parcel 1, being the first stage that will be released. To create such lots in isolation and without road frontage or servicing is unrealistic.

Condition 34(ii) commits the developer to financial arrangements for the progressive construction of community facilities and this ought to be adequate security against the provision of the facilities.

It is therefore requested that Condition 34(i) be deleted entirely from the conditions of consent.”

Comment

Condition 34 currently reads as follows;

“34. (i) *In conjunction with release and registration of the first linen plan of subdivision, the applicant shall dedicate all land for Community Facilities within Parcels 13 or 14 and 17 as identified in S94 Plan No.10.*

(ii) *Prior to release of the first linen plan of subdivision, the applicant shall construct on a proportionally staged basis the community facilities nominated in S94 Plan No.10 for Cobaki Lakes for a lot threshold of 1,000 lots (ie, table 3). Alternatively, Council will accept a bond on a proportionally staged basis for the facilities based on the approved estimated cost of the work.”*

The modification to this condition appears to be reasonable. It is generally agreed that condition 34(i) is impractical as one of the approved community facility lots is some distance from the first

Reports from Director Development Services

stage in parcel one. It would create a lot in isolation without road frontage or services, which is not desirable.

It is agreed that Condition 34(ii) will still commit the developer to financial arrangements for the progressive construction of community facilities in accordance with S94 Plan No.10 for Cobaki Lakes.

With the deletion of condition 34(i) it is considered that Condition 34(ii) will still satisfy the progressive staged dedication and construction of the community facilities in Cobaki Lakes.

At a meeting with the applicant and Council held 13/6/2002 it was agreed that condition 34 should be amended as proposed by the applicant to allow for the dedication of the community facilities on a staged basis.

Therefore, the deletion of condition 30(i) as proposed by the applicant is reasonable and is supported.

8. Condition 83.

This condition refers to the upgrade of Piggabeen Road along the entire frontage of the development site to a type D.

The applicant wishes to modify this condition for the following reasons;

“This condition was based on the original Englobo lot subdivision which included a vehicular connection to Piggabeen Road.

The connection is not now proposed as evidenced by Council Consents to DA No. 1 and DA No.2 in Tweed Shire Council files S97/54 and K99/1124 respectively.

As no road connection is proposed and no vehicular access sought directly from Piggabeen Road, it is requested that Condition No. 83 be deleted entirely.”

Comment

Condition 83 currently reads as follows;

“83. Upgrade Piggabeen Road along the entire frontage of Parcel 7, 8, 9 and 10 to a type D rural cross section including the provision of controlled drainage to prevent ponding prior to linen release for stages 7, 8, 9 and 10.”

The comment made by the applicant that no connection is now proposed to Piggabeen Road from Cobaki Lakes is correct. This connection was deleted as part of the approvals for consents K99/1124 and S97/54.

Council's Engineers have reviewed this proposal and provided that at the time of determination a direct vehicular link from Piggabeen Road to Sandy Lane was required. Consequently, the upgrading of Piggabeen Road was required. The intent of condition 83 was to upgrade Piggabeen Road and also to provide controlled drainage to prevent ponding along the rear of the proposed residential allotments.

This requirement to obtain direct vehicular access from Piggabeen Road has been subsequently modified by consents S97 and K99/1124, however the potential problems associated with drainage of stormwater at the rear of the residential allotments still remains.

Reports from Director Development Services

It is considered that the requirement to upgrade Piggabeen Road could be modified to a requirement of providing controlled drainage along Piggabeen Road to prevent ponding within the table drain and thus eliminate drainage problems for the future residents along Piggabeen Road.

At a meeting between Council and the applicant held 13 June 2002 it was agreed to modify this condition to delete the requirement for the upgrade of Piggabeen Road. However, the condition will still require controlled drainage along Piggabeen Road.

It is therefore recommended that condition 83 be modified to read as follows;

“83. The provision of controlled stormwater drainage along Piggabeen Road to prevent ponding prior to linen release for Stages 7, 8, 9 and 10.”

9. Condition 117.

This condition refers to the approved plans for the development of Parcel 1, Phase 1A. It also refers to a rear building line restriction of 10 metres, which affects lots 31 and 32, lots 34 to 54 and lots 1 to 12 and lots 69 to 73. This condition makes provision that no buildings other than swimming pools are permitted within the 10m building line area to the rear boundary.

The applicant requests to delete the lots 35 to 42 inclusive and lots 91, 92 and 93 from the rear building line restriction of 10 metres.

To support the modification the applicant has provided the following;

“This proposal follows a more accurate survey of the main tree line adjacent to the northern boundary of Parcel 1, as depicted on the accompanying Plan 2764/1-3 C.

The 4m right of carriageway for emergency vehicles, as per condition 125, will remain as per the consent.”

Comment

The purpose of the 10 metre building line restriction to the rear of these lots was to provide a bushfire asset protection zone to the vegetation to the north.

The survey plan submitted by the applicant demonstrates that to the rear of lots 35 to 42 and lots 91, 92 and 93 there is no vegetation in close proximity, as the tree line here varies.

The proposed modification was referred to Council’s Fire Control Officer for comment who recommends that the proposal to delete the 10 metre building line restriction should not be supported as it would compromise adequate asset protection zones.

It is agreed that the 10 metre building line restriction to lots 35 to 42 and lots 91, 92 and 93 should not be deleted for the reason provided by Council’s Fire Control Officer. In addition, it is likely that the cleared area behind lots 35 to 42 and lots 91, 92, and 93 will at some time regenerate to vegetation consistent with the mature vegetation in the vicinity, and this is likely to pose a bushfire risk to these lots in the future. Therefore, the 10 metre building line restriction to the rear of these lots should remain.

10. Condition 124.

Similar to Condition 117, this condition requires a restriction as to user requiring a 10 metre wide area at the rear of lots 31 to 54 inclusive in Parcel 1 for bushfire hazard mitigation purposes.

Reports from Director Development Services

Again the applicant requests proposed lots 35 to 42 inclusive be deleted from the 10 metre building line restriction for the same reasons provided in condition 117 above.

Comment

The proposed amendments to this condition are similar to that proposed for condition 117. As the proposed amendments to condition 117 are not supported it is considered that the proposed amendments to condition 124 should also not be supported for the same reasons provided in condition 117 above.

11. Conditions 138, 187, 236, 285 & 334.

All these conditions refer to the provision of multi purpose trails, bikeways or shared pedestrian/bikeway paths.

The applicant requests modification to these conditions to read as follows;

“Multi purpose trails, bikeways or shared pedestrian/bikeway paths shall be provided in accordance with a plan submitted to, and approved by Council, and shall be in accordance with Austroads Part 14, Bicycles of the current equivalent.”

The reasons for this modification by the applicant are provided as follows;

“These five conditions are all identical and refer to the SKM Drawing numbers which detail the location of multi-purpose trails, bikeways or shared paths etc.

The locations of the trails and pathways will be subject to amendment and re-location in accordance with likely modifications to the Masterplan and site specific development designs and the subject conditions could thus be modified to provide for this contingency.”

Comment

These multi purpose trails are provided extensively over the Cobaki Lakes site, which is a significant area. Taking into consideration the size of the site and the number of consents issued, it is likely that the staged development and design of Cobaki Lakes may change over time as circumstances dictate.

To ensure some flexibility it is agreed that the proposed modification to these conditions is reasonable and should be supported. The conditions will still ensure that these multi purpose trails are provided.

Reports from Corporate Services

5. ORIGIN: General Manager

FILE REF: Festivals-Policy; Donations

REPORT TITLE:

First Round Donations 2003/2004 - Festivals Policy

SUMMARY OF REPORT:

Further to the adoption of Council's Policy on Festivals, applications were sought and are now submitted for Council's determination.

RECOMMENDATION:

That Council determines the distribution of funds for the first round of donations to Festivals in accordance with the adopted policy and the funds voted in the 2003/2004 Budget.

Reports from Corporate Services

REPORT:

Council, at its meeting held on 21 April 1999, adopted the Festivals Policy. As a result of the Policy, the first round of applications for 2003/2004 have been received and are documented for Council's consideration.

The 2003/2004 budget allocation for Festivals is \$33,500.00.

Applicant	Amount Requested	Purpose
Tweed Valley Banana Festival	\$8,500.00	To help stage the 2004 Tweed Valley Banana Festival & Harvest Week Inc.
Murwillumbah & Districts Senior Citizen's Week Committee	\$ 4,500.00	To conduct the 2004 Seniors Expo

The total amount requested for Festivals in the first round of donations for 2003/2004 is \$13,000.

In the 2002/2003 budget allocation for Festivals, funds were distributed as follows:

1ST ROUND:

Senior Citizens	\$3,500
Tweed Valley Banana Festival	\$8,500
Wollumbin Festival	\$2,000

2ND ROUND:

Greenback	\$1,500.00
Tweed Coolangatta Chess Club	\$1,000.00
Tyalgum Diggers	\$2,000.00
Tyalgum Festival	\$2,000.00
Wintersun Festival	\$7,500.00
Art Food and All the Jazz	\$4,000.00
Wollumbin Dreaming	\$1,000.00
Lions Club, Kingscliff	\$300.00
Speed on Tweed	\$2,000.00
Total	\$35,300.00

Reports from Corporate Services

6. ORIGIN: General Manager

FILE REF: Voluntary Structural Reform; Amalgamations

REPORT TITLE:

Voluntary Structural Reform - Amalgamations of Local Government Authorities

SUMMARY OF REPORT:

The State Minister for Local Government, the Honourable Tony Kelly, requires Councils in New South Wales to advise him by 22 August 2003 of views/intentions in regard of any amalgamation or boundary alterations.

Councillors have been briefed regarding the processes that need to be followed and the issues to be considered in an amalgamation process/boundary alterations.

Further information relating to the views of the Shires' Association and others has been provided.

The briefing information and further information has been provided to the media via a briefing by the General Manager as well as providing radio and television interviews.

The information is again provided as an addendum to this report.

RECOMMENDATION:

That Council's General Manager provide a response to the Minister for Local Government predicated upon the following view as follows:

Tweed Shire Council believes that it is a viably sustainable local government authority operating within a "whole of catchment" (being the Tweed Valley encapsulating the complete river systems of the Tweed, Rous and Oxley Rivers).

Based upon the Department of Local Government Comparative Data and Council's long term capital, operating and financial planning, service delivery to the Tweed community is of high standard at reasonable cost.

However, Tweed Shire Council has an open mind to any proposals that the Minister for Local Government or others may consider putting forward.

Reports from Corporate Services

REPORT:

As per summary.

Reports from Corporate Services

7. **ORIGIN:** General Manager

FILE REF: Donations

REPORT TITLE:

First Round Donations 2003/2004 - Donations Policy

SUMMARY OF REPORT:

Further to the adoption of Council's Policy on Donations, applications were sought and are now submitted for Council's determination.

RECOMMENDATION:

That Council determines the allocation of funds from the 2003/2004 budget.

Reports from Corporate Services

REPORT:

Council's at its meeting held on 17 March 1999, adopted the "Donations Policy". As a result of the policy, the first round of applications for 2003/2004 have been received and are now documented for Council's consideration.

The 2003/2004 Budget allocation for donations is \$20,000.00. Council's policy provides for 75% of the budget allocation to be expended in the first round, thus \$15,000.00 is available for distribution.

Applicant	Donation Requested	Purpose
Gumnut Community Preschool Inc. Burringbar	\$ 2,000.00	Building an additional room
Kingscliff Mini School	\$ 700.00	Gravel cover in car park
Trustees Burringbar School of Arts	\$ 614.00	Renovations & upgrade of Burringbar Hall.
Royal Australian Historical Society in respect of Affiliated societies	\$ 762.30	Public Liability & Personal Accident/Voluntary Workers Insurances.
Burringbar School of Arts	\$ 2,000.00	Purchase & installation of a catering sized electric oven with gas cook top and range hood.
Murwillumbah East Public School	\$ 3,450.00	Boys Tap Dance Group – Fees for Teacher and purchase of dancing shoes for group for first performance during education Week 2003
Greg Norman Golf Foundation Inc	\$ 5,000.00	Sponsorship of The Greg Norman Junior Masters
Murwillumbah Primary School	Unspecified	Refund of development application fee – Previous application was unsuccessful and is now being resubmitted
Warriors Softball Association	Unspecified	Sponsorship for team to attend the 9 th Australian Masters Games in Canberra.
Tweed Palliative Support Inc Murwillumbah	\$ 1,550.00	Training course for 2004 annual intake of volunteers
Volunteer Marine Rescue Point Danger Association Inc.	Unspecified	Refund of DA fees – Annual Tweed River Classic Fishing competition. Jan 9 – 11, 2004.
Blind Citizens Australia – Tweed Valley Branch	\$ 2,000.00	Purchase of a Pentium 4 Computer
Tweed Valley CTC – Uki centre	Unspecified	Sponsorship of "i" signs on either side of Uki road on their building

Reports from Corporate Services

Club Banora	\$ 2,500.00	Uki and on their building. Purchase of a Lap Top computer for Masters Swimming Club
Community Care Register for Old People	\$ 1,000.00	Purchase of promotional material.
Lindisfarne Anglican School	\$65.00 - \$375.00	Table sponsorship at World of Business Luncheon for Year 11 students. Single Sponsorship from \$ 65 to Table Sponsorship upto \$ 375.
Gold Coast Soccer Inc.	\$250.00	Special Soccer Match with National Team "Marconi" at Ned Burn Field.

The total approximate amount of donations requested is \$ 23,981.30.

Council is reminded that there is a maximum limitation on a donation to an individual or organisation of an amount no greater than \$2,000.

Reports from Corporate Services

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Reports from Corporate Services

8. ORIGIN: Business Undertakings Unit

FILE REF: Markets - Farmers Market

REPORT TITLE:

Tweed Farmers Market

SUMMARY OF REPORT:

Report on progress and recommendation of future operations of the Tweed Farmers' Market.

RECOMMENDATION:

That:-

1. Council grants consent to continue to operate the Tweed Farmers' Market subject to Development Consent.
2. Subject to Council's approval to extend the consent, that Council officers investigate costs and feasibility of the various works detailed in the body of this report and bring back a report to Council for their consideration.

Reports from Corporate Services

REPORT:

Council would be aware that the Tweed Farmers' Market has been operating from the corner of Riverside Drive and Tweed Valley Way, Tumbulgum for a period of approximately six (6) months.

Councillors will also recall that a condition of consent (DA02/2078) was that the consent be limited to a period of six (6) months from the date of approval, being 13 March 2003.

With respect to the operation of the markets, there is general agreement from both operators and purchasers that the markets are successful, however could be improved with further works as detailed below.

Clearly, the matter of extension of the consent to operate is a condition precedent to the question of the further works and in this regard, it is recommended that the approval be extended to allow the Tweed Farmers' Market to continue to operate at Council's leisure.

With respect to the works, the following suggestions have predominantly been received from stallholders and are detailed below:

1. Signage

General agreement that more/better signage is required with possibly a large sign on corner/apex of site, identifying produce, eg. fresh, locally grown produce.

2. Sites

Each site must be clearly delineated by permanent marker.

3. Manufactured Products

There have been a number of requests to sell locally produced manufactured products, eg. coffee, jams, preserves, pate, etc.

It is suggested consideration be given to this proposal, and that input from Council's Environment & Health officers and other relevant authorities be first sought.

4. Surface Treatment

The Farmers' Market site is predominantly road base. In dry weather and with numerous vehicle movements and/or wind, dust becomes a problem.

It is suggested that Council's Engineering staff be requested to investigate and advise best options.

5. Licence

Licences should be specified as to site, duration and days if not seven days a week for licence period.

6. Licence Agreement

To be reviewed by Council's solicitors to ensure enforceability, risk management, liability issues etc are correctly addressed given ongoing nature of markets.

7. Fees

Reports from Corporate Services

During the initial six (6) month trial, sites were let on a gratis basis. It is considered reasonable to charge a site fee, on the user-pays basis, however given the current standards of the facility and other objectives behind its origination it is suggested Council determine the matter of fees, and if so in what amount. An example could be \$10 per month.

Reports from Corporate Services

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Reports from Corporate Services

9. ORIGIN: Financial & Information Services Unit

FILE REF: Monthly Investment Report

REPORT TITLE:

Monthly Investment Report for the Period Ending 31 July 2003

SUMMARY OF REPORT:

This report is provided to Council to advise details of monies Council has invested in accordance with Section 625 of the Local Government Act 1993.

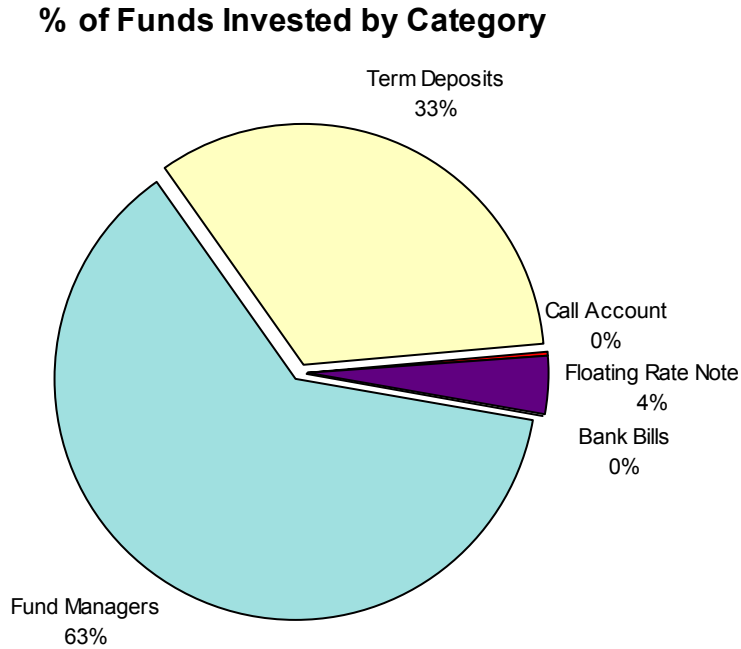
RECOMMENDATION:

That this report be received and noted.

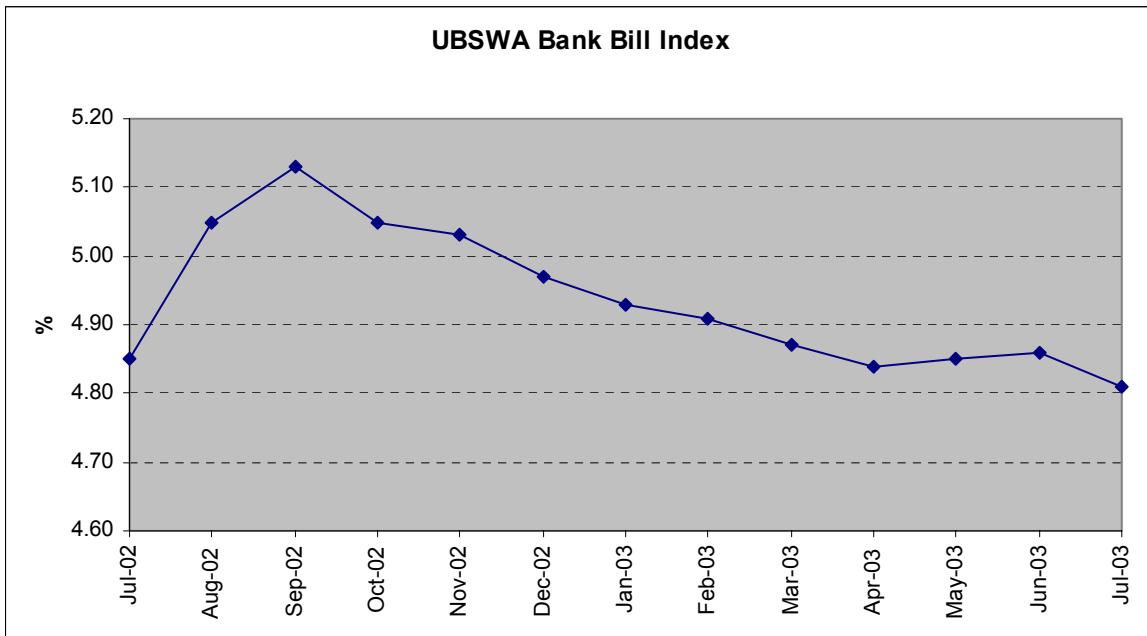
Reports from Corporate Services

REPORT:

1. CURRENT INVESTMENT PORTFOLIO BY CATEGORY



2. INVESTMENT RATES – 90 DAY BANK BILL RATE (%)

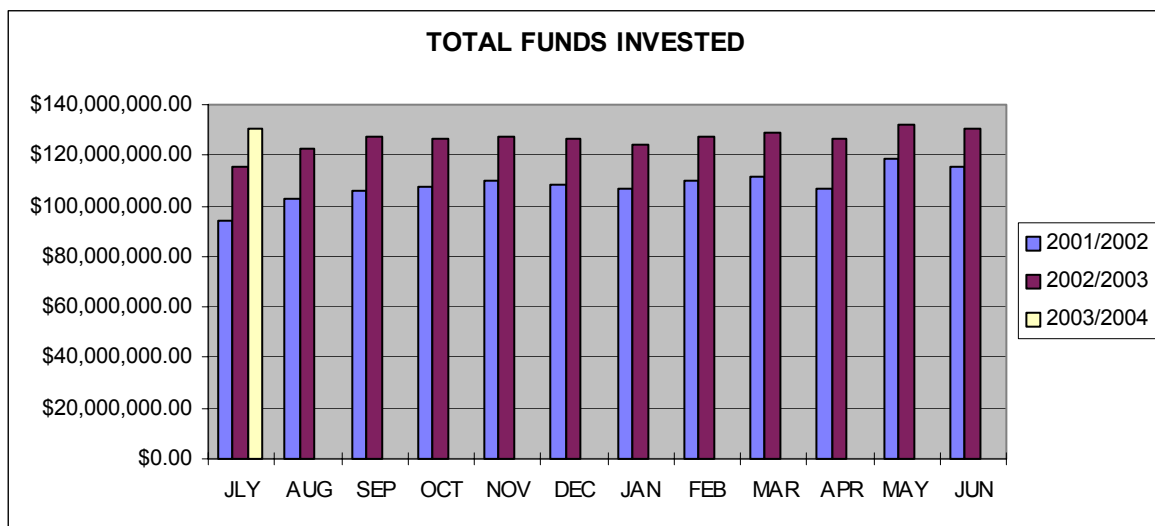


Reports from Corporate Services

3. ANNUALISED RATES OF RETURN FOR FUND MANAGERS – NET OF FEES

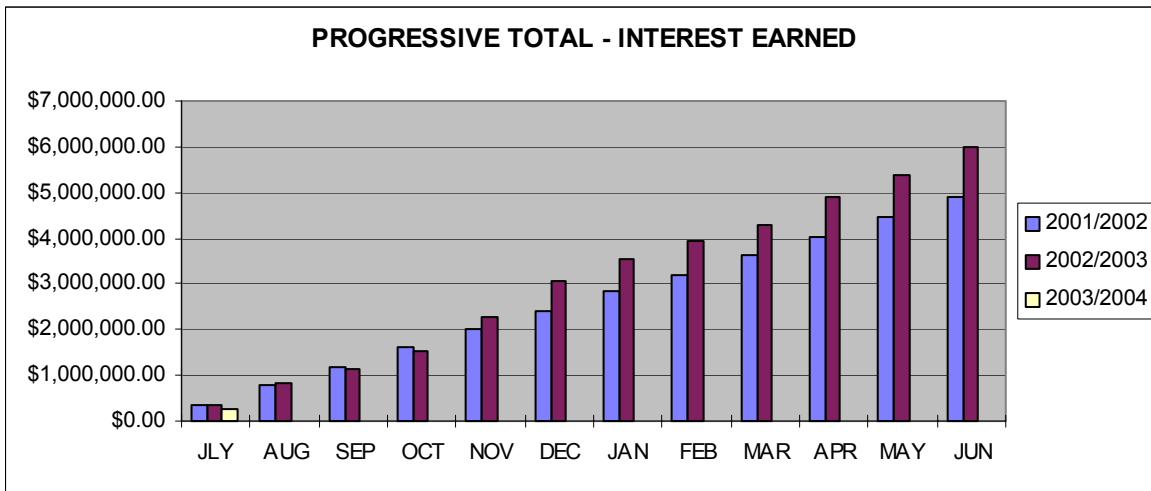
Fund	30 Days %	90 Days %	1 Year %
ANZ Cash Plus	4.72	5.59	5.22
Alliance Cap Cash	4.74	4.53	5.01
Deutsche Cash Plus	5.51	5.88	5.23
Macquarie Diversified	5.33	5.46	5.17
UBS Credit Enh.	5.43	6.13	5.62

4. MONTHLY COMPARISON OF TOTAL FUNDS INVESTED



Reports from Corporate Services

5. ANNUAL PROGRESSIVE TOTAL OF INTEREST ON TOTAL FUNDS INVESTED



6. MARKET COMMENTARY

Given the resilience in the Australian economy and the likelihood of continued growth, it would appear that in the absence of any sudden and untoward deterioration in global economic conditions, Australian interest rates may be expected to trend upwards over the medium term.

At its August Board meeting the Reserve Bank of Australia maintained its present interest rate stance at 4.75% for the 14th consecutive month.

7. INVESTMENT SUMMARY AS AT 31 JULY 2003

GENERAL FUND

BANKS	24,906,750.00	
FUND MANAGERS	18,799,112.77	
CALL	526,278.52	44,232,141.29

WATER FUND

BANKS	6,500,000.00	
FUND MANAGERS	36,750,594.95	43,250,594.95

SEWERAGE FUND

BANKS	12,000,000.00	
FUND MANAGERS	26,204,673.01	
LOCAL GOVT. FIN. SERVICES	5,000,000.00	43,204,673.01

TOTAL INVESTMENTS **130,687,409.25**

It should be noted that the General Fund investments of \$44.2 million are not available to be used for general purpose expenditure. It is virtually all restricted by legislation and council resolution for such purposes as unexpended loans, developer contributions, unexpended grants and various

Reports from Corporate Services

specific purpose reserves such as domestic waste, land development and employee leave entitlements.

Statutory Statement - Local Govt Financial Management Regulations (Sec.19)

I certify that Council's investments have been made in accordance with the Local Government Act 1993, the Financial Management Regulations and Council's investment policies.



R R Norvill FCPA
Responsible Accounting Officer
Manager Financial & Information Services

Reports from Corporate Services

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Reports from Director Engineering Services

10. ORIGIN: Design Unit

FILE REF: GR3/12/3; LN 2335; Road - Closures - Murwillumbah

REPORT TITLE:

Application to Close and Purchase an Unformed and Unnecessary Public Road - Mooball Street, Murwillumbah

SUMMARY OF REPORT:

An application has been received to close and purchase an unformed road reserve adjacent to property (Lot 1 in DP 727317) recently purchased by the applicants at Mooball Street, Murwillumbah.

The application complies with Council's policy on "Road Closures & Private Purchase" and it is the intention of the applicants to create a corridor of plantings to increase privacy and improve the amenity of their land. The area within the road proposed to be closed is currently covered with grass and weed species.

Generally Council seeks to provide landowners on both sides of the road the option to purchase and in this instance, it is recommended that Council approve the closure of half of the width of the road.

Further, 3 metre wide easements are required in Council's favour as follows

- Over a sewer pipe located within the land owned by the applicants and the unformed road, shown on the attached plan marked "B";
- A right of access by Council to maintain the drain located immediately north of the land within the unformed road reserve.

RECOMMENDATION:

That:-

1. Council approves closing part of the unformed road reserve coming off Mooball Street, specifically that part along the eastern boundary of the applicant's land being half of the width of the road;
2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by the State Valuation Office;
3. The title of the closed road be consolidated with the adjacent land;
4. Easements be created over public authority reticulation services and to provide access rights to Council for the maintenance of a drain at no cost to Council; and

Reports from Director Engineering Services

5. All necessary documentation be executed under Common Seal of Council.

Reports from Director Engineering Services

REPORT:

An application has been received to close and purchase an unformed road reserve adjacent to property (Lot 1 in DP 727317) recently purchased by the applicants at Mooball Street, Murwillumbah.

A plan of the proposed road closure, marked "A", follows showing the road to be closed as hatched.

The application complies with Council's Policy on "Road Closures & Private Purchase" although the unformed road provides access to an unformed extension of George Street from Mooball Street, any potential formation of George Street is unlikely.

It is the intention of the applicants to create a corridor of plantings to increase privacy and improve the amenity of their land.

Generally Council seeks to provide landowners on both sides of road the option to purchase and in this instance, it is recommended that Council approve the closure of half of the width of the road in this instance.

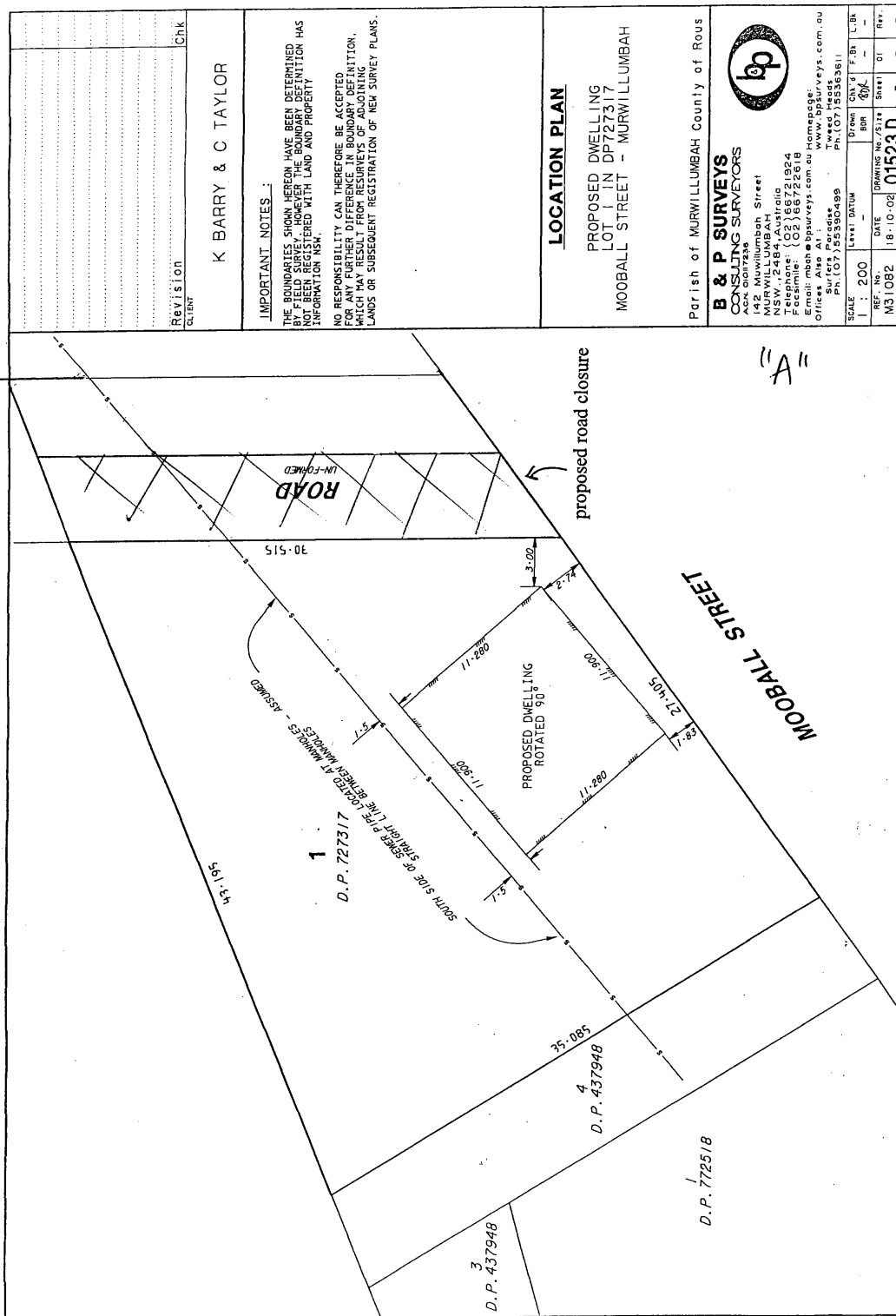
Further, 3 metre wide easements are required in Council's favour as follows

- Over a sewer pipe located within the land owned by the applicants and the unformed road, shown on the attached plan marked "B";
- A right of access by Council to maintain the drain located immediately north of the land within the unformed road reserve.

The plan marked "C" shows the location of the proposed easements sought by Council.

As the road is unformed the road will vest to the Crown upon closure and proceeds of the closure and transfer will be payable to the Crown.

Reports from Director Engineering Services



Revision
CLIENT
CHK

K BARRY & C TAYLOR

IMPORTANT NOTES:
 THE BOUNDARIES SHOWN HEREON HAVE BEEN DETERMINED BY FIELD SURVEY, HOWEVER THE BOUNDARY DEFINITION HAS NOT BEEN REGISTERED WITH LAND AND PROPERTY INFORMATION NSW.
 NO RESPONSIBILITY CAN THEREFORE BE ACCEPTED FOR ANY FURTHER DIFFERENCE IN BOUNDARY DEFINITION, AS TO THE POSITIVE EVIDENTS OF ADJOINING LANDS OR SUBSEQUENT REGISTRATION OF HER SURVEY PLANS.

LOCATION PLAN
 PROPOSED DWELLING
 LOT 11 IN DP727317
 MOOBALL STREET - MURWILLUMBAH

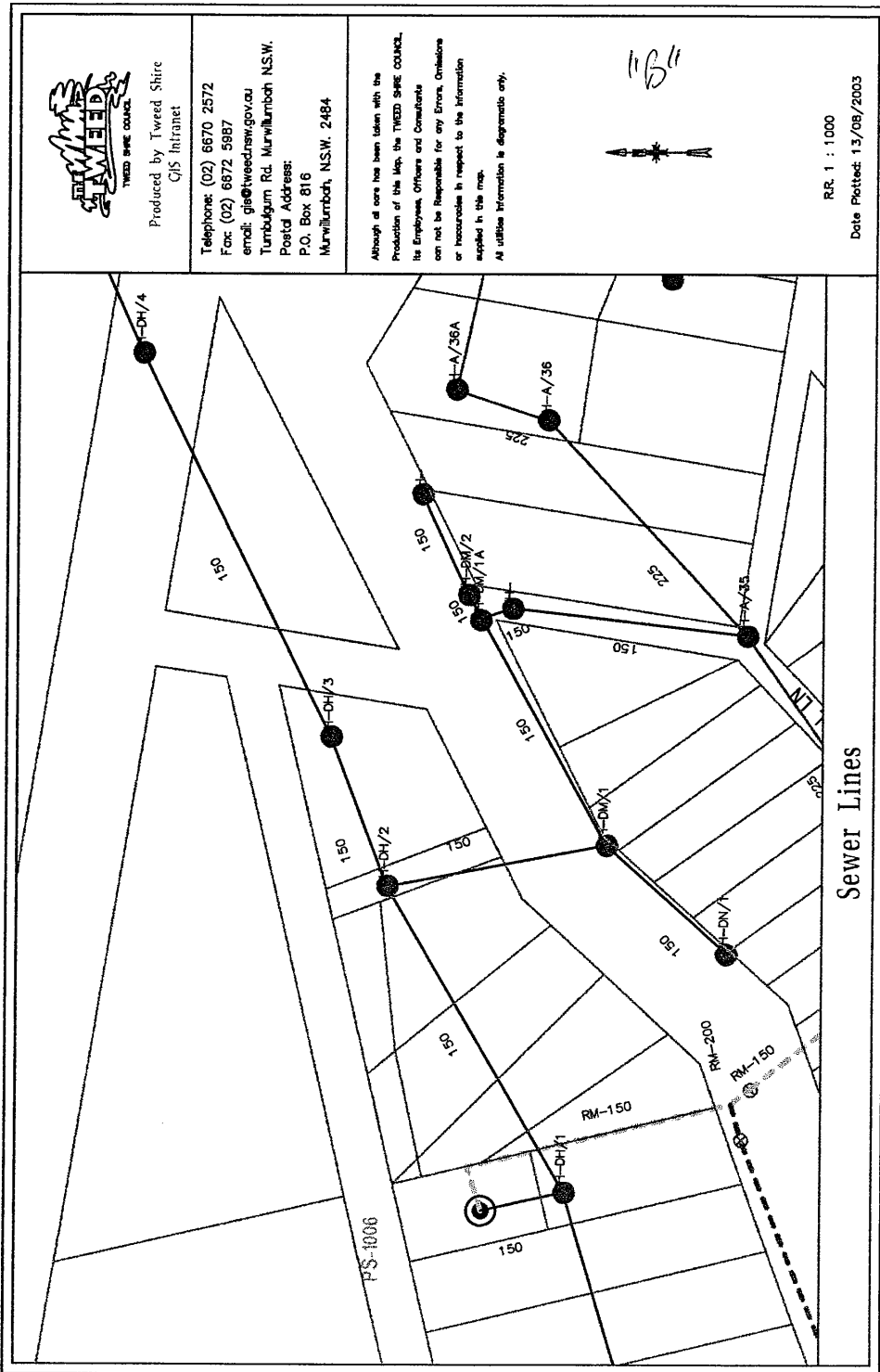
Parish of MURWILLUMBAH County of Rous

B & P SURVEYS
 CONSULTING SURVEYORS
 142 Murwillumbah Street
 MURWILLUMBAH
 NSW 2484 Australia
 Phone: (02) 66722618
 Facsimile: (02) 66722618
 Email: mbah@bpsurveys.com.au Homepage: www.bpsurveys.com.au
 Offices Also At: Brisbane Ph: (07) 55590499
 Perth Ph: (08) 94553611

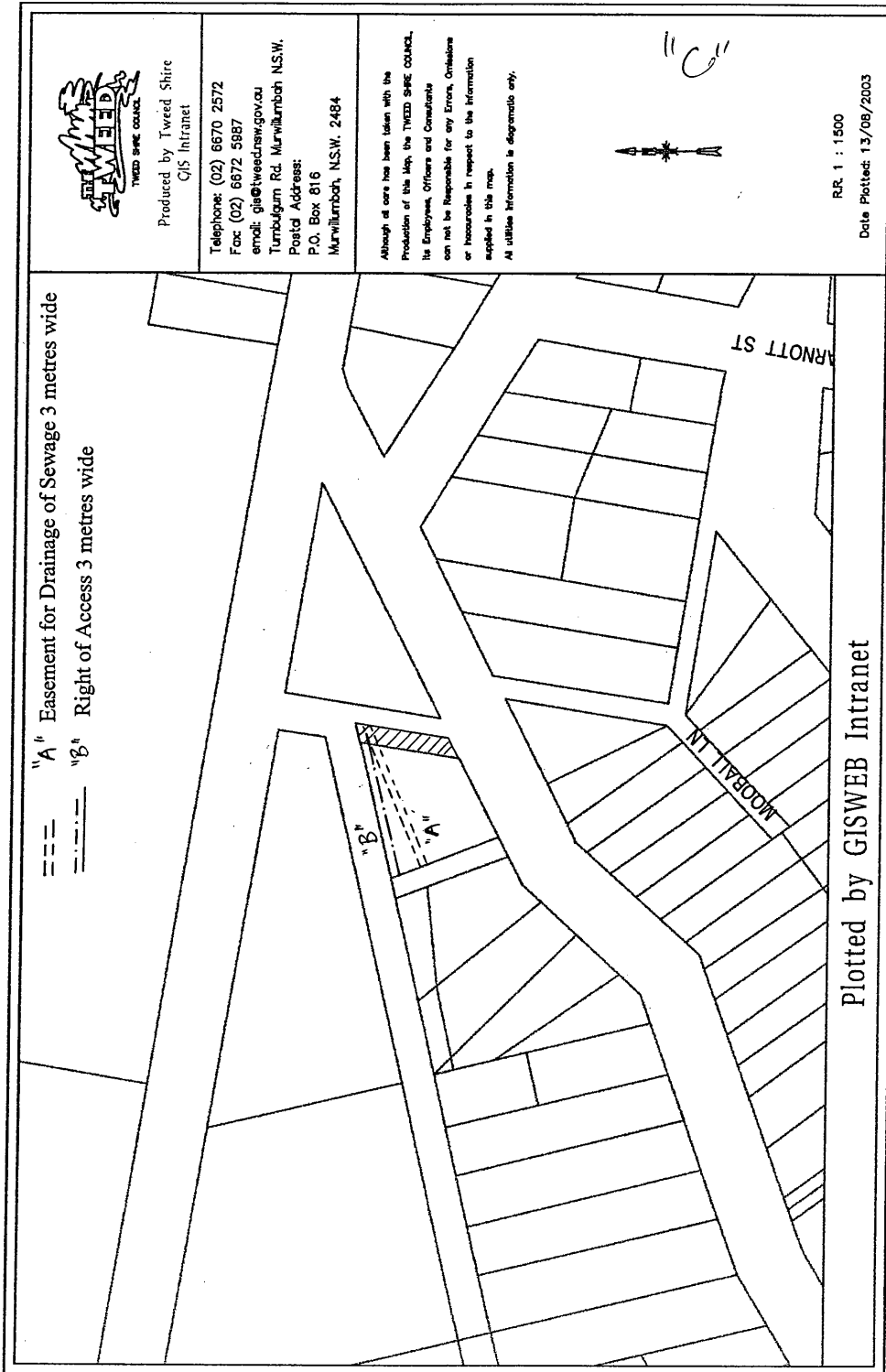
SCALE 1 : 200

Level DATUM	Drawn	CHK'd	F.Bk	L.Bk
REF. No.	DATE	DRAWING No./SIT	Sheet	01
M31082	18-10-02	01523D		

Reports from Director Engineering Services



Reports from Director Engineering Services



Reports from Director Engineering Services

11. ORIGIN: Director

FILE REF: Hastings Road; Car Parks - Other Places; LN 34265; LN 40086

REPORT TITLE:

Cabarita Car Parking

SUMMARY OF REPORT:

Council owns 2 parcels of community land in Hastings Street, Cabarita identified as future car parks. This report canvasses the option of proceeding with a multi-level car park on the southern lot given its close proximity to the centre of the commercial precinct. One option to fund such a project could be by disposal or commercial development of the northern lot.

RECOMMENDATION:

That Council proceeds with:-

1. The further development of a concept for a multi-level car park on the southern lot, particularly addressing issues of visual amenity and legal access to the Tweed Coast Road.
2. The commencement of a process to reclassify the northern lot to operational land.
3. Seeking professional advice on the highest and best use for the northern lot as an integral part of the Cabarita Beach Bogangar Development Control Plan process.

Reports from Director Engineering Services

REPORT:

Council has two parcels of land in Hastings Street Cabarita. Both lots were vested in Council in 1979 as Public Reserves for the purposes of car parking. The plan included in this report shows the location of both blocks. In 2000 the existing Community Plan of Management for both parcels of land was formally amended to enable them to be developed as car parks in the future. A formal public consultation process as required by legislation was conducted at the time. In addition to that Council has been progressively acquiring land at the rear of the blocks fronting the Tweed Coast Road as redevelopment occurs to enable future access from the car park to the rear of those properties. Both blocks of land are classified as community land.

The block on the corner of Rosewood Avenue and Hastings Street is considered to have limited potential for future car parking given its relative remoteness to the village commercial precinct. The southern block while more appropriately located is constrained because of the height difference between Hastings Road and the Tweed Coast Road. Construction of on-ground car parks at both locations would yield 74 car park spaces on the northern lot and 51 car parking spaces on the southern lot.

As an alternative to providing on ground car parking the option of developing a multi storey car park on the southern lot has been pursued to concept stage. A 3 level car park on the southern lot (ground level plus 2) would yield 167 car parks. A preliminary estimate to undertake this work is \$2M. Any decision to proceed would be dependant upon obtaining a pedestrian right of way through one of the adjoining commercial developments to the Tweed Coast Road. Given the obvious commercial benefit of this it is unlikely that this will be an issue. One option to fund construction of this car park could be by disposal of the northern lot. This would necessitate its reclassification to operational land. This is considered to be quite achievable on the basis that the alternative multi-deck car park on the southern lot will yield more car parks in total than construction of two on ground facilities. The car parking area provided will have increased benefit given its proximity to the business precinct. Reclassification of the northern lot to operational land would not preclude ultimate construction of a car park at this locality if this was the preferred planning and engineering outcome.

However in the event that it is the preferred engineering planning outcome reclassification now may provide a source of funds to enable works on the southern lot to proceed, given that a consideration in the determination of the ultimate land use for both lots will relate to the funds that could be obtained from disposal of the northern lot.

A confidential attachment to this report provides one option for future disposal. Other options could include a joint venture, redevelopment, or straight sale at market value.

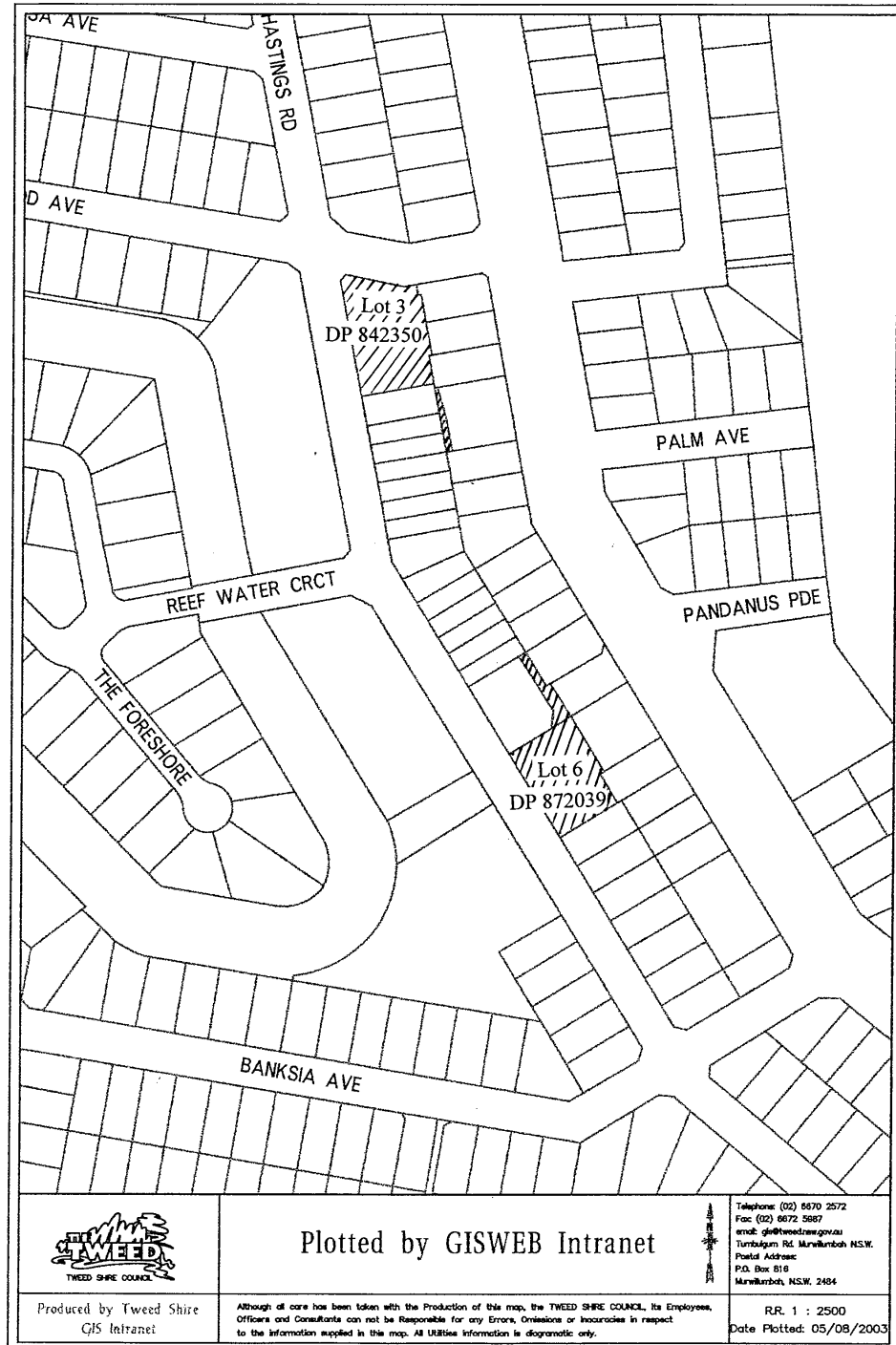
The land is currently zoned 5 (a) Special Uses Car Parking. That zoning allows for any activity currently allowed for in adjoining zones to be approved on that lot.

This report therefore recommends:-

1. The further development of a concept for a multi-level car park on the southern lot, particularly addressing issues of visual amenity and legal access to the Tweed Coast Road.
2. The commencement of a process to reclassify the northern lot to operational land.

Reports from Director Engineering Services

- To seek professional advice on the highest and best use for the northern lot in the event that disposal becomes a preferred option.



Reports from Director Engineering Services

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Reports from Director Engineering Services

12. ORIGIN: Design Unit

**FILE REF: Street Naming; Kings Forest Development; LN 19000; DW 936431;
Depot Road**

REPORT TITLE:

Naming of Crown Road Transferred to Council Located Off Depot Road, Kings Forest

SUMMARY OF REPORT:

Council was approached by landowners who access their property off an unnamed Crown Public Road, in the newly gazetted locality of Kings Forest, to name the road to provide a describable rural address.

To enable Council to name the unnamed road, it was necessary to seek the transfer of the Crown Road to Council. This transfer has recently been completed.

The landowners who use this road initially sought the road to be named **Mahogany Court**. However, there is a road named "**Mahogany Road**" at Mount Burrell and Council's policy on road naming, derived from guidelines prepared by the Geographical Names Board, indicates that name duplication within a local government area should be avoided. It is considered that the road type suffix is not sufficient to differentiate the roads.

A subsequent letter from the landowners seeking the name "**Secret Lane**" has been received. The name is considered to be unique name and the use of "lane" is appropriate in this instance.

RECOMMENDATION:

That Council:-

1. Publicises its intention to name the road coming off Depot Road at Kings Forest as "**Secret Lane**" allowing one month for objections to the proposal; and
2. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

Reports from Director Engineering Services

REPORT:

As per summary.

A copy of the landowners letter follows, together with a plan showing the location of the road:-

August 6, 2003

Anita Mudge
Lot 19 Old Bogangar Rd
CUDGEN NSW 2487

Dr J Griffin
General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

Dear Dr Griffin,

Naming of Public Road: ATTENTION - NELLA TURNBULL

Further to my conversation with Nella on Monday 4/8/03, I have had consultation with my neighbours regarding the naming of the section of road that comes off Depot Road and we would like Council to consider the name **Secret Lane** for this recently acquired section of road.

We hope you can give this a favourable recommendation, as we believe it is appropriate given the secluded / hidden location of this road. We consider this a unique name for what we believe is a unique area. Having researched the meaning of 'lane', we also consider this aptly describes this road.

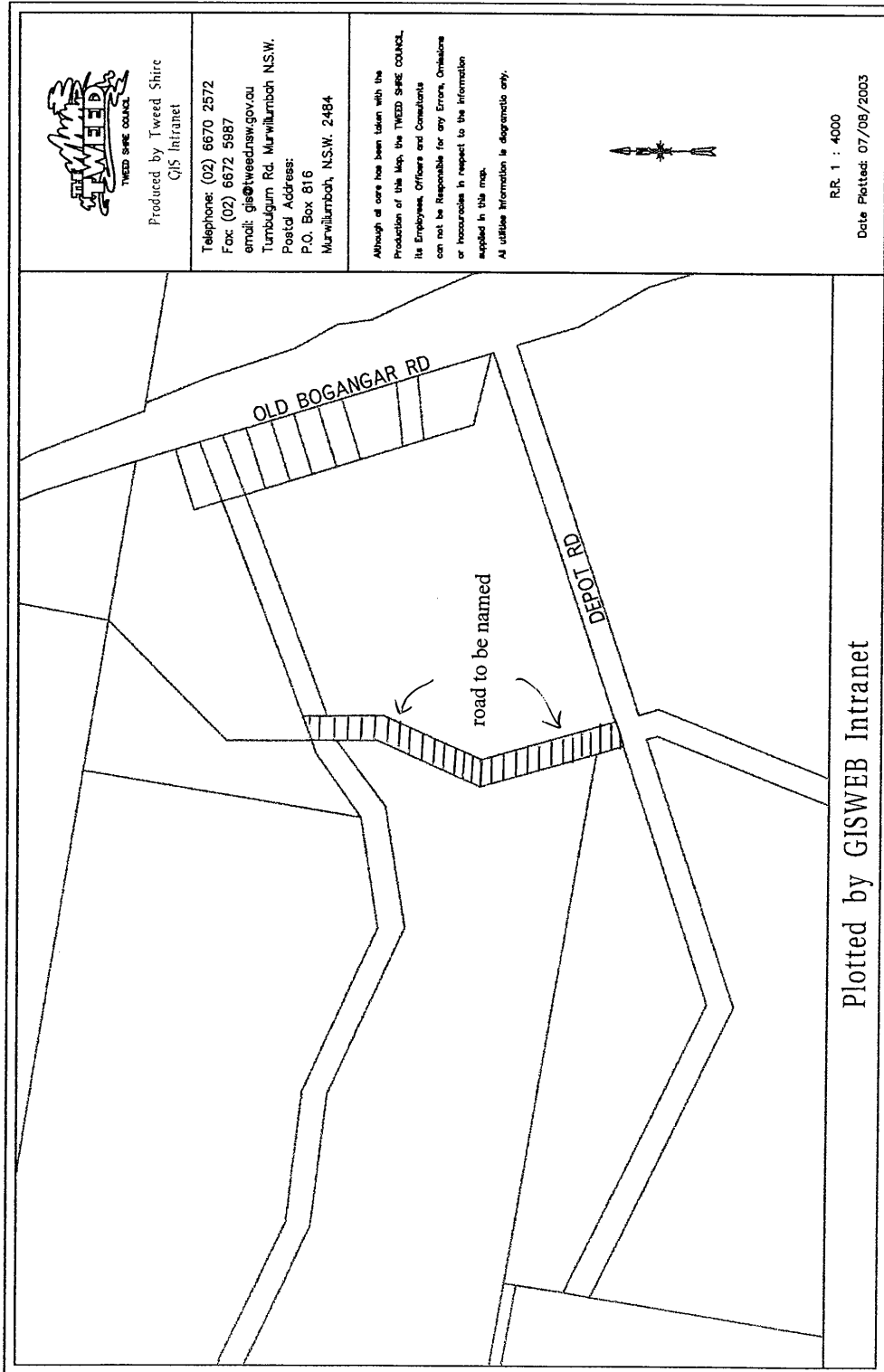
We request that the new sign also has a "No Through Road" highlighted on it.

Yours sincerely,



Anita Mudge
for Barry Stegeman, Margo Rees and Bernice Wright

Reports from Director Engineering Services



Reports from Director Engineering Services

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Reports from Director Engineering Services

13. ORIGIN: Design Unit

FILE REF: R5495 Pt8

REPORT TITLE:

Naming of Roads - Naming of Tweed Valley Way

SUMMARY OF REPORT:

The naming of roads within the Council's jurisdiction as a roads authority is detailed in the Roads Act, 1993. When Tweed Valley Way was named prior to the opening of the Motorway between Yelgun and Chinderah, it was necessary to proceed with the naming expeditiously so that signs could be made for the opening.

Subsequent investigation into the road naming procedure pursuant to the Roads Act, 1993 and the Roads (General) Regulations 1994 revealed that the naming procedure followed prior to the opening of the Motorway did not strictly comply with the Act nor the Regulations. The Act and the Regulations required Council to invite written submissions or objections to the proposed name within 28 days from the date of publication of a proposal to name the road. The questionnaire published in the Link regarding the names proposed did not strictly comply with the Act or Regulations. Discussions held with the Department of Local Government in relation to this matter confirm the above.

In light of this discovery it is now necessary to pursue the naming of "Tweed Valley Way" according to the Act and Regulations to enable the gazettal of the name. The gazettal would then allow the residents living adjacent to and the businesses operating from previous Pacific Highway addresses to change their addresses to "Tweed Valley Way".

This report is now made to initiate the correct procedure for the re-naming of the Pacific Highway between Yelgun and Chinderah to "Tweed Valley Way".

RECOMMENDATION:

That Council:-

1. Adopts the name "*Tweed Valley Way*" in lieu of the current name of "Pacific Highway" for the length of highway between the new Yelgun and Chinderah;
2. Publicises its intention allowing one month for objections to the proposal; and
3. Notifies the relevant authorities under the provisions of the Roads (General) Regulation 1994.

Reports from Director Engineering Services

REPORT:

As per summary.

Reports from Director Environment & Community Services

14. ORIGIN: Environment & Health Services Unit

FILE REF: Approvals - Footpath Trading

REPORT TITLE:

Tweed Shire Council - Draft Footpath Trading Policy

SUMMARY OF REPORT:

Footpaths are travel areas set aside for use by pedestrians. They are intended to be safe, to provide access and allow free movement. These intended benefits should be available to all, including those with mobility limitations such as the disabled and aged.

The high exposure to passing pedestrian (and motor) traffic that footpaths provide also makes them an ideal location for traders, charities and other organisations to capture attention.

Tweed footpaths are experiencing greater pressure as both pedestrian and business usage grows. Concern has been raised in recent years by organisations such as the Tweed Valley Branch of the Blind Citizens' Association and the Tweed Disability Access Committee as to reduced accessibility of footpaths. It is appropriate to establish clearer guidelines for managing the use of footpaths for trading to ensure safety, access and appearances are maintained.

The supervision of footpath trading is presently carried out by the Environment and Community Services Division through the use of three Tweed Shire Council policies.

These policies were reviewed and shown to be in need of updating to properly address public safety and provide greater guidance for affected traders.

It is recommended that Council policies E3, E11.1 and E11.2 be repealed and be replaced with a single Footpath Trading Policy. A proposed draft is attached (Attachment 1). This policy is based on the objectives of:

- safe, unrestricted and convenient pedestrian movement;
- safety and amenity of footpath trading patrons; and
- maintaining or improving existing streetscape elements and maintaining or promoting local amenity.

RECOMMENDATION:

That Council endorses the draft Footpath Trading Policy for display and public consultation.

Reports from Director Environment & Community Services

REPORT:

Footpaths are travel areas set aside for use by pedestrians. They are intended to be safe, to provide access and allow free movement. These intended benefits must be available to all, including those with limited mobility such as the disabled and aged.

The high exposure to passing pedestrian (and motor) traffic that footpaths provide also makes them an ideal location for traders, charities and other organisations to capture attention. This promotion and placement can significantly benefit traders and in cases such as footpath dining, also enhance community appeal.

However, the use of footpaths for trading is not an automatic right. Public footpaths are Council owned and primarily provided for pedestrian safety and access. Trade uses should only be allowed if they satisfy these basic purposes and contribute to an attractive community streetscape. Concern has already been raised in recent years by organisations such as the Tweed Valley Branch of the Blind Citizens' Association and the Tweed Disability Access Committee as to reduced accessibility of footpaths. It is appropriate to establish clearer guidelines for managing the use of footpaths for trading to ensure safety, access and appearances are maintained.

The supervision of footpath trading is presently carried out by the Environment and Community Services Division, assisted by Corporate Services' administration of charity stalls. Overall responsibility, maintenance and approval of construction on footpaths belongs with the Engineering Services Division, while signage and development on footpaths is managed by the Development Services Division.

The Environment and Community Services Division carries out its supervision of footpath trading through the use of the following Tweed Shire Council policies:

- E3 – Charity Fundraising, which controls the collecting of money and soliciting of assistance;
- E11.1 – Display of Goods on Footpath, which controls the display of merchandise and goods on footpaths; and
- E11.2 – Footpath Restaurants, which controls outdoor dining

Over time these policies have undergone modification to reflect changing demands until a Council meeting on the 3rd of March 1999, resolved that:

(Council) Alter its policies on Outdoor Dining, on the Display of Goods on Footpaths and on Charity Fundraising and to introduce a Policy on Busking which will contain the objective of providing along the footpaths, a 2 metre wide pedestrian access, such being located from the shop front/property boundary and such being introduced firstly in Main Street upgrade areas.

This process was commenced with a review of the existing policies. This review showed the policies to be inconsistent, inadequately structured and containing insufficient consideration of public safety and little guiding direction for affected traders. They are also narrow in their applicability and do not provide direction for usages such as busking or soliciting/hawking.

The review of existing Tweed Shire policies was followed by a check of similar policies from other local governments, a check of Department of Urban Affairs and Planning guidance documents, a

Reports from Director Environment & Community Services

check of engineering standards for footpaths and pedestrian movement, inspections of successful footpath trading areas in the Gold Coast area and inspections of Tweed Shire's main street areas.

Several key components emerged from this work:

1. Safety, access, amenity and convenience should remain the primary purpose of footpaths;
2. The creation of a 2 metre wide pedestrian access from shop front/property boundaries would;
 - require the relocation of numerous pieces of public infrastructure, such as telephone booths, benches, power and other poles and junction boxes;
 - significantly affect some existing approved outdoor dining areas; and
 - be difficult for many businesses displaying goods on footpaths to comply with.

A 2 metre wide pedestrian clearway on some portion of a footpath is considered to be a more viable alternative.

3. Providing buffer distances or barriers between pedestrians and traffic or parking areas is a key safety issue; and
4. Considering visibility and access at corners and crossings is a key safety issue.

Pursuant to this it is proposed that Council policies E3, E11.1 and E11.2 be repealed and be replaced with a single Footpath Trading Policy. A proposed draft is attached (Attachment 1). This policy is based on the objectives of:

- safe, unrestricted and convenient pedestrian movement;
- safety and amenity of footpath trading patrons; and
- maintaining or improving existing streetscape elements and maintaining or promoting local amenity.

The policy stipulates approved forms of footpath trade, contains general requirements that guide all traders in meeting the objectives (regardless of their type), includes trade specific requirements and stipulates how application for approval to trade on a footpath is to be made.

An inclusive policy will also enable an applicable portion of the development approval process to be streamlined. Presently the Tweed Local Environmental Plan requires development consent for activities such as the display of goods, ticket selling, stalls, and busking on a footpath (though this provision is not currently enforced to any large extent). It is possible that any footpath trading activities that fall under the Footpath Trading Policy and fully comply with it may be considered as Exempt Development under DCP40 thus removing the requirement that development consent be obtained. The Strategic Town Planning Unit has included a clause to this effect in the current review of DCP40 and if a Footpath Trading Policy is eventually approved by Council after consultation then this clause may be utilised.

Key issues with the introduction of the new policy

Blind Citizens' Association Concerns

On previous occasions the Blind Citizens' Association, Tweed Valley Branch has appealed to Council to adopt a 2 metre wide path of travel along building frontage. While the draft policy does

Reports from Director Environment & Community Services

require a 2 metre wide path of travel it is not mandatory for this to be along building frontage. The reasons for this include obstacles (including public infrastructure) along building frontages that could only be relocated at great expense to the community and Council.

It is proposed that this issue be discussed with the Access Committee during public consultation on the draft policy.

Compliance by existing approved and non-approved footpath traders

Following the development of the draft policy a check was performed of cafes and restaurants with existing footpath dining agreements, and businesses in the town centres that have some form of footpath trading, predominantly the display of goods. The following issues were noted:

- It would appear that the majority of businesses with current footpath dining agreements would comply with the new policy with minimal change (feedback on this would be sought from businesses during public consultation). A small number of businesses did not achieve the required buffer zone from the edge of the footpath and in one case chairs were placed with their rear legs at the very edge of the footpath, creating a real risk of fall, personal injury or damage to parked vehicles. The draft policy requires that these issues be addressed through negotiated agreement or enforced when current approvals come up for renewal.
- Generally goods displays on footpaths present limited problem and modifications should not be major for all but a few businesses that place excessive goods on their footpath frontage.
- Charity stalls presently exist only in Murwillumbah and a practical working relationship has long existed between Council and local charities. As a result charity stall requirements remain generally unchanged in the new draft policy.

CONCLUSION

The draft proposed Footpath Trading Policy presents a more coherent and coordinated approach to ensuring Tweed Shire's footpaths are safer, accessible and maintain community appeal while allowing reasonable use for trade.

The implementation of the draft proposed Footpath Trading Policy will require changes for some traders, however the required changes will be for the purpose of safety and convenience will be negotiated in the first instance. Other issues of concern to the community and traders will be addressed during public consultation.

Reports from Director Environment & Community Services

15. ORIGIN: Environment & Health Services Unit

FILE REF: Noxious - Insects & Pests

REPORT TITLE:

Entomological Control Report and Annual Summary

SUMMARY OF REPORT:

The following report outlines nuisance insect activity and control for the period May to July 2003 and an annual summary of activity.

RECOMMENDATION:

That this report be received and noted.

Reports from Director Environment & Community Services

REPORT:

BITING MIDGE

Seasonal activity

There were only 3 biting midge related enquiries over the report period.

Biting midge larval sampling carried out prior to spraying in July indicated moderate numbers of *Culicoides molestus* larvae present in the major canals.

Control

Biting midge larval control was carried out during July to canal estate beaches at; The Anchorage, Crystal Waters, Endless Summer, Blue Waters, Tweed Waters and Oxley Cove Estates. Excellent spray results were achieved at all sampled sites with an average midge larval reduction of 96.7% by 24 hrs post spray.

MOSQUITOES

Seasonal activity

Mosquito breeding was prolific in coastal areas of the Shire in May following heavy rainfall. Breeding continued into June with *Verrallina funerea* causing many problems for residents close to mosquito breeding areas in coastal ti-tree and Casuarina wetlands. The cooler weather in late May and June shifted the mosquito biting activity further into the day, which exacerbated the nuisance for many residents.

Council workmen, laying water pipes through wetlands at Pottsville, had to postpone the job for several weeks in June due to very large populations of *V. funerea* attacking them and their concerns over arbovirus illness.

Carbon dioxide baited traps recorded moderate to high numbers of mosquitoes over the report period. *Culex sitiens* was the most commonly trapped mosquito followed by *Ochlerotatus Vigilax* and *Oc. notoscriptus*. The standard trapping sites did not show the intense coastal mosquito activity as traps were sited away from the coastal *V. funerea* breeding areas.

Control

Ground based mosquito control, utilising biological larvicides, was carried out over the report period to pockets of *Oc. vigilax* and *V. funerea* breeding around Pottsville, Hastings Point, Banora Point, Cobaki, Terranora, Bilambil and Tumbulgum.

When mosquito numbers peaked in coastal areas in late May-June, the temperatures were too cold early morning and evening to allow ULV mosquito adulticiding to be effective; this was due to temperatures being below the mosquito flight activity threshold.

During early May, morning and evening pyrethroid adulticiding was carried out around mosquito harbourage areas close to Pottsville Primary School and Pre School and adjacent to works on a Pottsville water main.

One aerial larvicide treatment, using Abate 5% sand granules, was carried out on 1 May, to mosquito breeding areas at Terranora and Cobaki. A total of 25 hectares was treated.

Reports from Director Environment & Community Services

Arbovirus

There were 34 notified Ross River virus cases in the shire over the period May – July 03, (42.5 per 100,000 pop.) and 44 Barmah Forest virus cases (55 per 100,000 pop.). *Total arbovirus = 78 (102.6 cases per 100,000 pop.)* The peak month for arbovirus notifications was May.

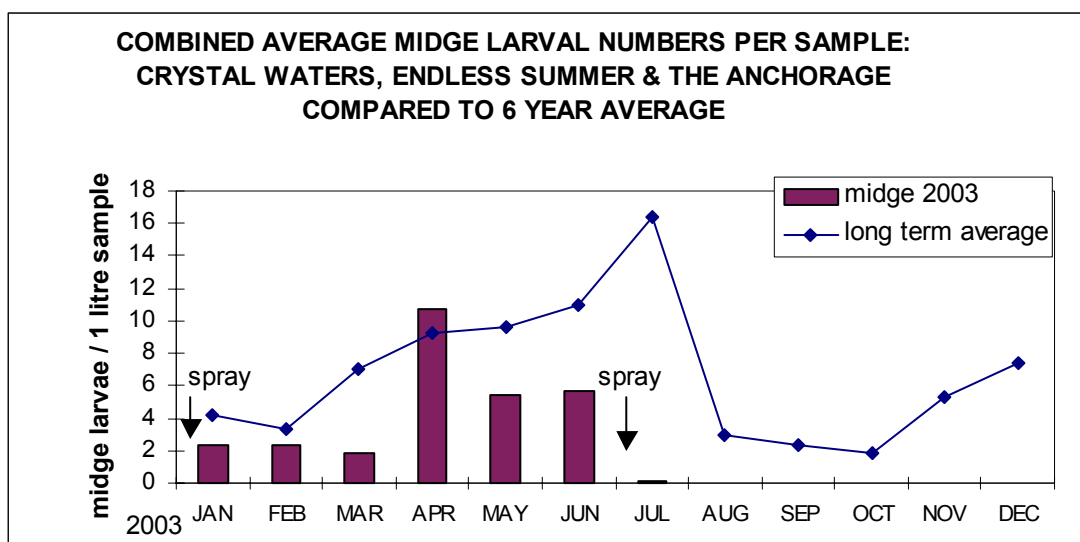
ANNUAL SUMMARY OF BITING INSECT CONTROL

BITING MIDGE

Seasonal abundance

Biting midge complaint numbers were below average most months of the year.

Midge larval numbers monitored in canals were also below average during most of the year (see graph below).



Control

Biting midge larvicide treatments, applied with boat mounted boom spray apparatus, were carried out to midge-infested canals during December 2002 and July 2003. Post spray testing confirmed very good control at all sprayed sites.

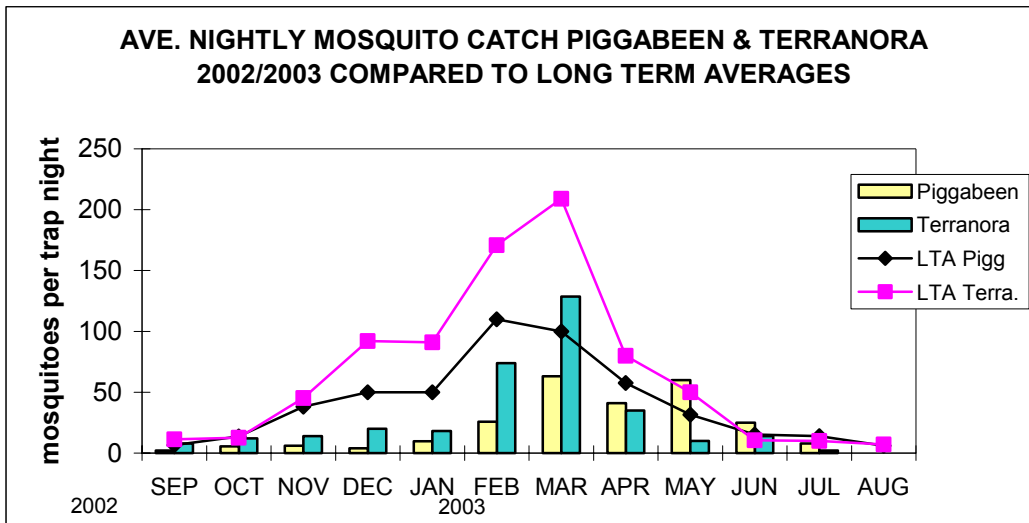
MOSQUITOES

Seasonal abundance

Mosquito adult numbers were below average in most areas of the shire until March when numbers increased markedly. The coastal areas south of Tweed Heads had to contend with high numbers of mosquitoes, particularly *Verrallina funerea*, through autumn and into winter. The nuisance species *Ochlerotatus multiplex* and *Ochlerotatus procax* were also very active in coastal areas late in the season.

The following graph depicts average nightly mosquito catches at West Tweed Heads and Terranora this season compared to long-term averages.

Reports from Director Environment & Community Services



Mosquito Control

Control activity included ground based application and the use of fixed wing aircraft. Ground based spraying utilised the biological larvicide Bti and the insect growth regulator methoprene, applied to *Oc. vigilax* and *V. funerea* breeding areas.

Five aerial applications to control saltmarsh mosquitoes were necessary during the season (see following table):

Reports from Director Environment & Community Services

AERIAL MOSQUITO SPRAYING - TAPPS AVIATION				ABATE 50SG				
Date	Site	Time	Chemical & rate	Hectares & amt. used	Weather	Target species	Pre spray dip ave.	Post spray dip ave
21-Nov-02	Mahers Lane	1420	Abate	12ha	Fine, 10-15k NE	Oc. vigilax	12/dip	2
			1.2 kg/ha	15 kg		Cx. sitiens		
21-Nov-02	Charles Bay	1500	Abate	10 ha	Fine. 10-15k NE	Oc. vigilax	3/dip	0
			1.2 kg/ha	11 kg				
6-Feb-03	N. Tumbulgum	1000	Abate	11ha	Light showers	Oc. vigilax	> 10/dip	0
			1.2 kg/ha	13kg	10-15k SE	V. funerea		
7-Feb-03	Mahers Lane	800	Abate	13ha	Light showers	Oc. vigilax	> 10/dip	0.2
			1.2kg/ha	15kg	5-10k ESE	Cx. sitiens	> 20/dip	0
7-Feb-03	Charles Bay	830	Abate	17ha	Light showers	Oc. vigilax		
			1.2kg/ha	18kg	5-10k ESE	V. funerea		
7-Feb-03	Basils Cobaki	900	Abate	12ha	Light showers	Oc. vigilax	5/dip	0
			1.2kg/ha	13kg	5-10k ESE			
7-Feb-03	Cobaki Lakes	1000	Abate	40ha	Light showers	Oc. vigilax	> 20/dip	0
			1.2kg/ha	41kg	5-10k ESE			
28-Feb-03	Charles Bay	1000	Abate	20ha	5k NE	Oc. vigilax	> 10/dip	0.1
			1.2kg/ha	24kg	Fine	V. funerea		
28-Feb-03	Basils Cobaki	1030	Abate	12ha	5k NE	Oc. vigilax	5/dip	0
			1.2kg/ha	13kg	Fine	Cx. sitiens		
28-Feb-03	Cobaki Lakes	1045	Abate	26ha	5k NE	Oc. vigilax	10/dip	0.1
			1.2kg/ha	30kg	Fine			
16-Mar-03	Charles Bay	1300	Abate	23ha	Fine	Oc. vigilax	>5/dip	0
			1.2kg/ha	25kg	10k SE	V. funerea		
16-Mar-03	Mahers Lane	1230	Abate	13ha	Fine	Oc. vigilax	>4/dip	0
			1.2kg/ha	15kg	10k SE			
16-Mar-03	N.Tumbulgum	1210	Abate	11 ha	Fine	Oc. vigilax	>6/dip	0
			1.2kg/ha	12kg	10k SE			
1-May-03	Basils Cobaki	930	Abate	12ha	Fine	Oc. vigilax	8/dip	0.1
			1.2kg/ha	13kg	10k SE	Cx. sitiens		
1-May-03	Charles Bay	900	Abate	23ha	Fine	Oc. vigilax	>5/dip	0
			1.2kg/ha	25kg	10k SE	V. funerea		

Arbovirus

Arboviral activity was very high late in the season, particularly for Barmah Forest virus, which was notified at levels well above any previous records. May was the peak notification month with 70 arbovirus cases per 100,000 of population.

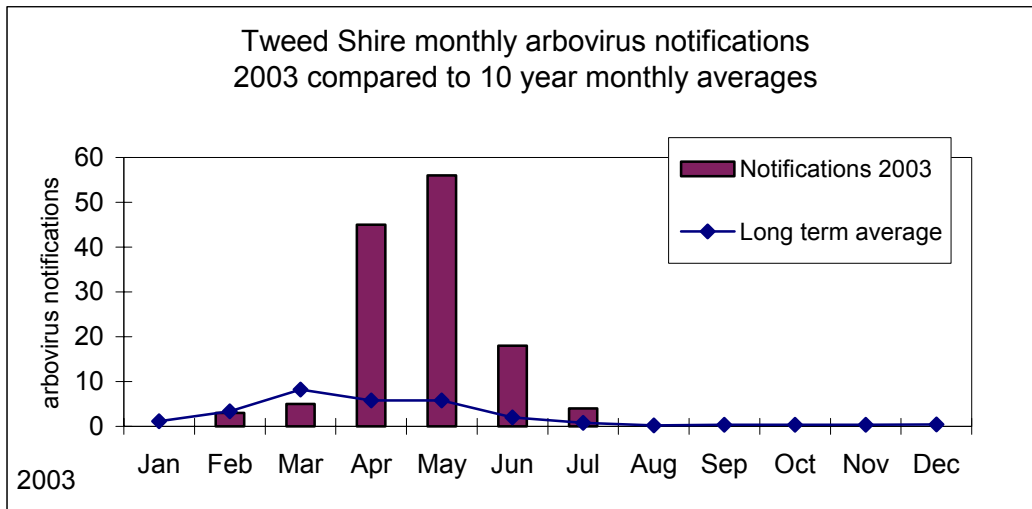
Arbovirus notifications for January to July 2003 = 59 RRv and 72 BFv

Total notifications January to July 2003 = 131 (172 per 100,000 pop.)

The high levels of arboviral activity in NSW late this season were centred within the Council areas of Tweed, Byron and Lismore.

The following graph depicts arbovirus notifications this year, compared with long-term (10 year) monthly averages.

Reports from Director Environment & Community Services



SEASONAL OUTLOOK, BITING INSECTS 2003/04

Biting midge

Major canal dredging in recent years has left beaches of all canal systems highly receptive to *Culicoides molestus* biting midge breeding. As was the case last season, canal sprays will need to be very effective to curb adult midge emergence this season.

Mosquitoes

The re-flooding of Tweed coastal wetlands by heavy rainfall late summer and autumn, following the long drought, caused a predicted surge in mosquito breeding very similar to that, which occurred in the early 1980s and 1990s following el niño periods. The high autumn mosquito populations, particularly *Oc. vigilax* and *V. funerea*, have likely left large reserves of dormant eggs around the higher marsh areas. These areas will have to be monitored carefully following next season's summer rains as well as after any storm surge driven tidal events. Fish and other aquatic mosquito larval predators have re-established moderate populations in most coastal wetlands. Regular rainfall is required leading up to summer to sustain these populations.

Major future challenge – Mosquito breeding in coastal wetland forests

Effective abatement of mosquitoes breeding in coastal wetlands adjacent to parts of Cudgen Creek, Cudgera Creek and Christies Creek, is proving a challenge that will become more difficult in future years as new residential development expands around these breeding sites. Most of the mosquito breeding in these areas is under dense Melaleuca and Casuarina forest. These forests contain many hectares of standing water after major rainfall with many areas also subject to tidal flooding from the adjacent creeks during storm surge events. At least 5 species of nuisance mosquito breed in these areas, many of them bite savagely throughout the day in shaded areas and are effective carriers of Ross River virus and Barmah Forest virus.

Control by hand application of biological larvicides is only proving possible in a small percentage of the affected areas. Aerial control with sustained release pellets of the mosquito insect growth regulator methoprene could be effective for periods of up to 3 months post-treatment; however, the

Reports from Director Environment & Community Services

proximity of proposed dwellings to many of these areas will preclude aerial treatment unless written permission is gained from all dwellers within 200 metres of the proposed treatment zones. Trapping devices, baited with carbon dioxide, may reduce some nuisance mosquito populations if placed in some of the smaller more confined breeding areas close to human habitation (2 traps set in Tweed coastal wetland forest earlier this year caught over 15,000 mosquitoes between them in one night). Trapping in the larger breeding areas is unlikely to have any real effect on overall mosquito populations as these areas breed millions of mosquitoes following site flooding.

It is important that residential development adjacent to these wetland areas does not further exacerbate mosquito breeding at these sites. Avoiding additional, or more rapid discharge of storm water into the wetlands is important. Unfortunately this has not been the case in some other wetland areas adjacent to Tweed development, which has lead to more frequent mosquito hatches and subsequent nuisance to nearby residents.

Reports from Director Environment & Community Services

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Reports from Committees/Working Groups

1. Minutes of the Aboriginal Advisory Committee Meeting Held Friday 4 April 2003

Aboriginal Matters

VENUE:

Tweed Heads South HACC Meeting Room

TIME:

10.15 a.m.

PRESENT:

Christine Morgan (TRHS), Jackie McDonald, Kelly Lena, Desrae Rotumah (AECG), Janette Saunders (TRHS, STHPS), Jenny Jones (DET), Russel Logan (Centrelink), Cr M R Boyd, Geoff Edwards, Jenni Funari, Pam Veness (Tweed Shire Council)

APOLOGIES:

Khani Hawthorne, Franc Krasna

In line with the previous decision to elect a chairperson for each meeting, nominations were called. Cr Boyd nominated Russell Logan to chair this meeting.

Moved: Max Boyd
Seconded: Jenny Jones

Mr Logan was unanimously elected Chairman of the Aboriginal Advisory Committee for this meeting.

Mr Logan welcomed each member to the meeting and introduced Pam Veness as the minute taker for this meeting.

MINUTES OF PREVIOUS MEETING:

Kelly Lena noted that the mailed version of the minutes of the previous meeting differs from those presented at this meeting.

Reports from Committees/Working Groups

1. Amendments

Clarification that the minutes should be amended to reflect that Mr Logan was nominated as Chair of that meeting alone. Other items need further clarification before minutes can be adopted.

RESOLVED that the minutes of meeting held Friday 7 February 2003 be corrected before adoption. Items of Business arising from the minutes will still be discussed at this meeting.

Moved: Jacki McDonald
Seconded: Max Boyd

Mr Logan asked that the Committee be addressed by a guest, Mr Bill Bainbridge, a member of the Lower Tweed Historical Society, who was invited to speak on the matter of geographical names within the Tweed or Aboriginal derivation.

The Geographical Names board of New South Wales has provided the historical societies in the state with lists of place names for review in May 2003. In this Shire, approximately 100 names have been submitted as being of Aboriginal derivation.

Mr Bainbridge presented to the Committee a copy of the indigenous places name list and requested from the Committee input into the correctness of the names proposed and further history if available.. Discussion ensued as to the method of choosing place names, given that dialects differ.

Cr Boyd mentioned that the Geographical Names Board could be requested to delay their entries for this Shire until a thorough investigation had been performed. Cr Boyd called for nominations to work on this. Jacki McDonald accepted and Desrae is to assist with liaison.

The Chair thanked Mr Bainbridge for the time and hard work he has put into this. Cr Boyd mentioned that it would be useful to compile a list of local dialect words and names to offer to property developers for naming of parks, streets and the like. Christine raised the issue of pronunciation and meaning – Jacki advised that these can be included in quotation marks on signs.

BUSINESS ARISING:

1. Old Border Caravan Park Site

Aboriginal Matters; Aboriginal Advisory Committee

It was advised that a native title claim on the site has been withdrawn and the former site management plan through Council was rescinded. Council will be seeking Aboriginal community input for use of the land. Suggestions include a new museum, and littoral rainforest planting.

Reports from Committees/Working Groups

Jenni Funari advised that a consultation process could be initiated under the 5th City of the Arts program and suggested that Graham Burton and Lesley Buckley be invited to the next Committee meeting.

Moved: Max Boyd

Seconded: Jacki JcDonald

RESOLVED that the Committee invites Stuart Brawley, Manager of Recreation Services, and a representative from National Parks and Wildlife Service, to attend the next meeting of the Committee to provide an update on the new Draft Plan for the Jack Evans Boat Harbour. Mr Edwards will provide A3-sized plans of the site formerly occupied by the Border Caravan Park to initiate the consultation prior to the proposed Management Plan.

2. Administrative Support

Aboriginal Matters; Aboriginal Advisory Committee

Advice was provided that Yabur-Yelgun has confirmed that funding for an administrative position of 15 hours/week is available. This organization will write to Council as the auspice body offering to fund the full cost of the position at 15 hours per week, and requesting in-kind assistance for office equipment and space.

It was suggested that Abstudy support from Centrelink is available for the remainder of the week for administration studies training through TAFE. Also, it was advised that the Elsa Dixon Employment Strategy has been amended and now supports Community Development Worker recruitment. This avenue of support will be investigated as well.

As part of the Mentorship Program, Mr Logan is able to speak to Council to raise this issue, and sought the Committee's endorsement to do this.

RESOLVED that the Committee endorses Mr Logan to address the next Council meeting regarding their concerns about the lack of an identified position within council and the funding options available to redress this.

3. NAIDOC Week Competition

Aboriginal Matters; Aboriginal Advisory Committee

Following discussion, it was advised that Council could offer shopping vouchers as the prize for the winner of the letterhead design competition.

It was felt also that the competition should be limited to Tweed school students, the perception being that professional designers would have an unfair advantage if the competition was open to all.

RECOMMENDATION:

That Council offers a prize for the winner of the Tweed schools competition for letterhead design.

Reports from Committees/Working Groups

4. TAAC Meeting dates

Aboriginal Matters; Aboriginal Advisory Committee

The Committee expressed appreciation for the inclusion of the meeting dates in the Tweed Link.

5. 16th Aboriginal Network Meeting

Aboriginal Matters; Aboriginal Advisory Committee

Mr Logan is preparing a report on the meeting, particularly on the links between Aboriginal Advisory Committees and Councils. (Mr Krasna did not attend the meeting.)

He spoke of the formal agreement between Liverpool Council and Gandangara Local Aboriginal Land Council – the purpose being to record an understanding between the parties to facilitate consultation and involvement in planning decisions that potentially affect Aboriginal interests, encourage the protection of significant sites and landscapes, and advance the Reconciliation process through establishing Aboriginal Working Groups to address relevant Council and public issues.

The next meeting will be in Wollongong, at the end of the year. As this will be the Annual General Meeting, they are hoping for a high number of elected Aboriginal Councillors to attend.

6. Crown Land Issues

Aboriginal Matters; Aboriginal Advisory Committee

It was enquired how the Committee could have input into proposals regarding Crown Land in the shire. Advice was provided that some crown lands are governed by Trusts which make recommendations to Council on issues as they arise. It was suggested that approaches could be made to the Trusts via the General Manager and Directors regarding further direct input into proposed uses of crown land.

GENERAL BUSINESS:

7. Terms of Reference

Aboriginal Matters; Aboriginal Advisory Committee

Discussion was held regarding formalising the Terms of Reference for this Committee, with a view to consistency with other Council Committees. The Committee was requested to view the Terms of Reference for the Cultural Advisory Committee, and if acceptable these could be adapted for this Committee.

Reports from Committees/Working Groups

NEXT MEETING: FRIDAY 2 MAY, AT 10 A.M.

The meeting closed at 12.15 p.m.

Director's Comments: The recommendation under item 3 will be dealt with under delegated authority.

DIRECTOR'S RECOMMENDATIONS:

3. NAIDOC Week Competition

Aboriginal Matters; Aboriginal Advisory Committee

Committee Recommendation:

That Council offers a prize for the winner of the Tweed schools competition for letterhead design.

Director's Recommendation: The recommendation under item 3 will be dealt with under delegated authority.

Reports from Committees/Working Groups

MINUTES CIRCULATED TO COUNCILLORS WITH THIS AGENDA NOT REQUIRING A COUNCIL DECISION

- 2. Minutes of the Public Transport Working Group Committee Meeting held Friday 25 July 2003**
 - 3. Minutes of the Tweed Shire Council Consultative Committee Meeting held Thursday 19 June 2003**
 - 4. Minutes of the Tweed Shire Council Consultative Committee Meeting Held Thursday 17 July 2003**
-

Orders of the Day

1. Notice of Rescission - Cr Boyd, Cr James and Cr Luff

Development Application DA02/1655 for a Commercial & Residential Development Consisting of 4 Shop Areas, Car Parking and 4 Residential Units at Lot 370 DP 755701, No. 16 Elizabeth Street, Pottsville

DA02/1655 Pt3; LN 19161; Notice of Rescission

That Council resolution at Minute No 656 in relation to Item 1 of the Meeting held on 6 August 2003 being:-

".....that Development Application DA02/1655 for a commercial and residential development consisting of 4 shop areas, car parking and 4 residential units at Lot 370 DP 755701, No. 16 Elizabeth Street, Pottsville be approved subject to the following conditions: -

GENERAL

1. *The development shall be completed in accordance with the Statement of Environmental Effects and Plans Nos 02434 9C, 10B, 11 B, 13B, 14B, 15B, 16B, 17B and 21B prepared by Nick Gouliaev and dated April 2003, except where varied by these conditions.*
2. *Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within the subject property.*
3. *The erection of a building in accordance with a development consent must not be commenced until:*
 - a. *detailed plans and specifications of the building have been endorsed with a construction certificate by:*
 - (i) *the consent authority; or*
 - (ii) *an accredited certifier; and*
 - b. *the person having the benefit of the development consent:*
 - (i) *has appointed a Principal Certifying Authority; and*
 - (ii) *has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and*
 - c. *the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.*
4. *In pursuance of the provisions of the Disability Discrimination Act, 1992 (Commonwealth) the design of the proposed development shall facilitate access for the disabled in accordance with the relevant provisions of AS1428- Design for Access and Mobility.*

Orders of the Day

- 5. *The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.*
- 6. *Advertising structures/signs to be the subject of a separate development application, where statutorily required.*
- 7. *The windows in the living room of Unit 4 on the southern elevation to be screened with lattice, fixed louvers or the like. Details to be included in the application for Construction Certificate.*
- 8. *The development to be carried out in accordance with the Nathers Certificate signed by Phil Clarke and dated 6/3/03.*

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

- 9. *A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Construction Certificate. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.*

10. *Section 94 Contributions*

- (i) *Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.*

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- a. *Tweed Road Contribution Plan: 28,591*
S94 Plan No. 4 (Version 4.0)
(Sector 8a)

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\$Con_{TRCP-Heavy} = Prod. \times Dist \times \$Unit \times (1+Admin.)$$

where:

Orders of the Day

\$Con_{TRCP - Heavy} heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tonnes

Dist. average haulage distance of product on Shire roads (trip one way)

\$Unit the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)

Admin. Administration component - 5% - see Section 6.5

- | | | |
|-----------|--|-----------------|
| <i>b.</i> | <i>Open Space (Structured):
S94 Plan No. 5</i> | <i>\$1,250</i> |
| <i>c.</i> | <i>Open Space (Casual):
S94 Plan No. 5</i> | <i>\$269</i> |
| <i>d.</i> | <i>Shirewide Library Facilities:
S94 Plan No. 11</i> | <i>\$1,112</i> |
| <i>e.</i> | <i>Eviron Cemetery/Crematorium Facilities:
S94 Plan No. 13</i> | <i>\$222</i> |
| <i>f.</i> | <i>Community Facilities (Tweed Coast)
(South Coast)
S94 Plan No. 15</i> | <i>\$1,752</i> |
| <i>g.</i> | <i>Emergency Facilities (Surf Lifesaving)
S94 Plan No. 16</i> | <i>\$388</i> |
| <i>h.</i> | <i>Extensions to Council Administration Offices
& Technical Support Facilities
S94 Plan No. 18</i> | <i>\$275.99</i> |
| <i>i.</i> | <i>Cycleways
S94 Plan No. 22</i> | <i>\$260</i> |
| <i>j.</i> | <i>Regional Open Space (Structured)
S94 Plan No. 26</i> | <i>\$1,899</i> |
| <i>k.</i> | <i>Regional Open Space (Casual)
S94 Plan No. 26</i> | <i>\$355</i> |

11. *A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.*

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted

Orders of the Day

Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water: \$9386

Sewer: \$7513

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

- 12. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.*
- 13. A detailed plan of landscaping is to be submitted and approved by Council's Director, Development Services prior to the issue of a Construction Certificate. All landscaping work is to be completed in accordance with the approved plans prior to any use or occupation of the building.*
- 14. Detailed Design plans to be submitted to the Director Engineering Services with the Section 138 Application including detail on the following:*
 - i. A 2.5 metre wide cycleway/walkway from the southern boundary of the site connecting to the existing cycleway at the end of Philip Street.*
 - ii. Car parking layout including the 8 spaces in front of the shops and the 17 spaces including bollards on the eastern side of Philip Street facing the reserve to be designed in accordance with Council's adopted design and construction standards.*
 - iii. A linemarking plan.*
 - iv. Footpath in front of the shops to be widened from 3.24 metres to 4.0 metres from the edge of the kerb to the edge of the proposed roof line of the shop awning.*
 - v. The driveway to Elizabeth Street to be designed in accordance with DCP 2 and Australian Standard AS2890.1 with the maximum driveway gradient for 6 metres from the property boundary not exceeding 1:20 or 5%.*
 - vi. The full frontage of the site to Elizabeth Street will require kerb and gutter and shoulder sealing.*
- 15. Any premises proposing to discharge into Council's sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Council's Manager Water and concurrence received from the Department of Land and Water Conservation, if*

Orders of the Day

- required, PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.*
16. *Pursuant to Section 68 of the Local Government Act, 1993 to ensure there is no unacceptable discharge to Councils sewerage system an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed to details approved prior to the issuing of a Construction Certificate. The development will be required to meet discharge standards in accordance with Councils Trade Waste Policy.*
17. *Erosion and Sediment Control During the Construction Phase of Development*
- (a) *Construction phase stormwater quality treatment (erosion and sediment control) shall be designed and constructed in accordance with detailed engineering plans to be submitted and approved with the Construction Certificate. Erosion and sediment control shall be in accordance with the "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan "Tweed Shire Council Aus-Spec D7 - Stormwater Quality" and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works". Erosion and sediment controls shall remain in place until final approval is given and the maintenance bond (if required) has been released.*
- (b) *The Construction Certificate Application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of Tweed Shire Council Aus-Spec D7 - Stormwater Quality.*
18. *Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.*
- Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:*
- i) *Contours and terraces where the height exceeds 1m.*
- ii) *Cover with topsoil and large rocks/dry stone walls in terraces as necessary.*
- iii) *Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.*
- iv) *Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.*
- v) *The landscaping shall be completed to the satisfaction of the Director Development Services PRIOR to the issue of a Subdivision Certificate.*
- vi) *A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 6 months from the date of issue of a Subdivision Certificate. The amount of the bond shall be 20% of the estimated cost of the landscaping or \$3000 whichever is the greater.*

Orders of the Day

19. *A construction certificate application for works that involve any of the following:-*

- *connection of a private stormwater drain to a public stormwater drain*
- *installation of stormwater quality control devices*
- *erosion and sediment control works*

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

20. A. *Building work that involves residential building work (within the meaning of the Home Building Act 1989) must not be carried out unless the Principal Certifying Authority for the development to which the work relates:*

i. *in the case of work to be done by a licensee under that Act:*

- (i) *has been informed in writing of the licensee's name and contractor licence number; and*
- (ii) *is satisfied that the licensee has complied with the requirements of Part 6 of that Act; or*

ii. *in the case of work to be done by any other person:*

- (i) *has been informed in writing of the person's name and owner-builder permit number, or*
- (ii) *has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in Section 29 of that Act,*

and is given appropriate information and declarations under paragraphs (a) and (b) whenever arrangements for the doing of work are changed in such a manner as to render out of date any information or declaration previously given under either of those paragraphs.

B. *A certificate purporting to be issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that a person is the holder of an insurance policy issued for the purposes of that Part is, for the purposes of this clause, sufficient evidence that the person has complied with the requirements of that Part.*

21. *Permanent Stormwater Quality Treatment*

(a) *Permanent stormwater quality treatment shall comply with "Tweed Urban Stormwater Quality Management Plan" (adopted by Council 19 April 2000) section 5.5.3 "Stormwater Objectives During the Post Construction or Occupational Phase of Development". New development is required to comply with table 5.4 of the plan and demonstrate compliance by modelling in accordance with section 5.5.4. Section 5.5.5 of the plan further advises that treatment that is in accordance with the "deemed to comply" provisions of*

Orders of the Day

Appendix E - Tweed Shire Council, Aus-Spec D7 - Stormwater Quality is deemed to comply with the objectives in 5.5.3.

- (b) Water sensitive design practices shall be adopted. Where it is practical, water quality features are to be designed into the land development site rather than rely on special end of pipe devices to strip pollutants and nutrients from stormwater prior to discharge. Typical water quality features that can be designed into the site development include use of porous pavements, directing runoff over filter strips or grass swales in landscaped areas, utilising landscaping as an integral part of stormwater quality management, maximising use of infiltration and stormwater reuse (eg. Rainwater tanks). These features can be complemented by site management practices which minimise creation of stormwater pollutants and nutrients and provide for appropriate operation, cleaning and maintenance of water quality control devices.*
- (c) The Construction Certificate Application must include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development, prepared in accordance with Section D7.07 of Tweed Shire Council Aus-Spec D7 - Stormwater Quality.*
- (d) Specific requirements:*
 - (i) The proposed car wash bay must be designed such that runoff is treated to remove oil and grit prior to discharge into the sewer network. Approval will also be required under Section 68 of the Local Government Act 1993 for any treatment device.*
 - (ii) Only minor surface drainage to be discharged to Elizabeth Street and the development is to predominately drain to Philip Street. All pipe drainage off site is to be Philip Street with connection via a new manhole to the existing underground stormwater main.*

PRIOR TO COMMENCEMENT OF WORK

- 22. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Consulting Engineer shall be erected and maintained in a prominent position at the site to the satisfaction of the Director, Development Services. The sign is to remain in place until the Subdivision Certificate is issued.*
- 23. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.*
- 24. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore required that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.*

Orders of the Day

25. *The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:*
- (i) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and*
 - (ii) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and*
 - (iii) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-*
 - (A) the method of protection; and*
 - (B) the date of installation of the system; and*
 - (C) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and*
 - (D) the need to maintain and inspect the system on a regular basis.*
- Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.*
26. *A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-*
- (a) a standard flushing toilet connected to a public sewer, or*
 - (b) if that is not practicable, an accredited sewage management facility approved by the council, or*
 - (c) if that is not practicable, any other sewage management facility approved by the council.*
27. *A sign must be erected on the site in a prominent, visible position stating:*
- a. that unauthorised entry to the work site is prohibited; and*
 - b. showing the name of the builder, or another person responsible for the site and a telephone number at which the builder or other person can be contacted outside working hours.*
 - c. Lot number.*
28. *It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:*
- i. The person must, at the person's own expense:*
 - a. preserve and protect the building from damage; and*
 - b. if necessary, underpin and support the building in an approved manner.*
 - ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.*

Orders of the Day

29. *Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.*
30. *Prior to the commencement of work on the stormwater system a site inspection is to be arranged with the Principal Certifying Authority to discuss site drainage.*
31. *An application to connect to Council's sewer is to be submitted to and approved by Council prior to the commencement of any works on the site.*
32. *Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced.*
33. *Trade Waste application fee will be applicable as per Councils Fees and Charges.*
34. *Prior to the commencement of work a Development Application to be submitted and approved by Council for the removal of the existing dwelling.*

DURING CONSTRUCTION

35. *A representative or representatives from the Tweed Byron Local Aboriginal Land Council to be on-site during excavations for the development including footings services and any other earthworks required, to enable any artefact, item or relic to be examined for aboriginal significance.*
36. *Should any artefact or item of European or Aboriginal Heritage be unearthed during construction all work is to cease immediately and re-commence until such time as National Parks and Wildlife Services have examined the artefact or item and given approval for work to continue.*
37. *The owner or contractor must not undertake any work within the public road reserve without giving Council's Engineering Services Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.*
38. *Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired to the satisfaction of the Director of Engineering Services prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.*
39. *Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742-1991 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.*
40. *The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.*
41. *All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.*

Orders of the Day

42. *Provision to be made for the designation of a durable and pervious car wash-down area/s. The area/s must be identified for that specific purpose and be supplied with an adequate water supply for use within the area/s. Any surface run-off from the area must not discharge directly to the stormwater system.*
43. *Any premises used for the storage, preparation or sale of food are to comply with the relevant provisions of the Food Act, 1989 and Council's adopted Code for the construction of Food Premises. Details of fittings and equipment are to be submitted to the Principal Certifying Authority prior to installation.*
44. *All walls in the food preparation and food storage areas shall be of solid construction, easily washable, lightly coloured and tiled to a height of at least 2 metres above floor level, or where not tiled, cement rendered to provide a smooth even finish to ceiling. Note: Stud framed walls will not be acceptable. Intersections of all floors with walls shall be covered to a radius of not less than 25 millimetres.*
45. *All flooring materials in any proposed food preparation and storage areas are to be impervious, non slip, non abrasive and capable of withstanding heavy duty operation. Where tiling is to be used epoxy grout finished flush with the floor surface is to be used in joints or alternatively all tiles are to be butt joined and free of cracks or crevices.*
46. *Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.*
47. *All work associated with this approval is to be carried out so as not to cause a nuisance to residents in the locality from noise, water or air pollution.*
48. *Construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.*
49. *All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:*
 - A. *Short Term Period - 4 weeks.*

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. *Long term period - the duration.*

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
50. *The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.*
51. *Prior to and during construction provide a "shake down" area along the haul route located immediately before the intersection with the road reserve. The "shake down" area is to be 10 metres long, minimum 3.0 metres wide, constructed of minimum 50mm diameter crushed rock; or other such device approved by the Director of Engineering Services.*

Orders of the Day

52. *The burning of builders waste on site by open fire is prohibited.*
53. *All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.*
54. *Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.*
55. *All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-*
 - * *43.5⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and*
 - * *50⁰C in all other classes of buildings.*

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.
56. *Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water.*
57. *A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention.*
58. *The service alleyway adjacent to the northern boundary to be suitably lit with lighting and capable of being securely locked by way of a door or gate from both Street Frontages after hours.*
59. *Exhaust ducts shall be provided/ incorporated into the structure to facilitate internal conveyance of cooking gases to the roofline discharge points.*
60. *Landscaping on the patio adjacent to the southern boundary to include potted plants only with a mature height of no more than 700 mm above the floor level of the patio.*
61. *All cut and fill batter must be contained wholly within the subject land.*
62. *Windows and doors opening into food preparation and storage areas are to be fully screened in accordance with Council's adopted code for the construction of food premises.*
63. *The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.*
64. *All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).*
65. *A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".*

Orders of the Day

66. *Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.*
67. *Demolition of building existing on site is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.*
68. *The certifying authority is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:*
 - a. *footings, prior to pouring of concrete*
 - b. *slab, prior to pouring of concrete*
 - c. *frame prior to the erection of brick work or any wall sheeting*
 - d. *final inspection prior to occupation of the building*
 - e. *completion of work*
 - f. *the fire protection of penetrations through any fire rated elements prior to covering*
69. *It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied.*
70.
 - a. *All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.*
 - b. *All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.*
71. *If the work involved in the erection or demolition of a building:*
 - a. *is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or*
 - b. *building involves the enclosure of a public place,*
a hoarding or fence must be erected between the work site and the public place.
If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with the work falling into the public place.
The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
Any such hoarding, fence or awning is to be removed when the work has been completed.
72. *Access to the building for disabled persons shall be provided and constructed in accordance with the requirements of Part D3 of the Building Code of Australia and Australian Standard AS 1428.1.*
73. *Prominently displayed signs and symbols must be provided to identify for disabled persons all routes and areas where architectural barriers do not exist. Such access must comply with the requirements of Australian Standard AS 1428 Parts 1 and 2.*

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74. *If access for the disabled is required under Part D3 of the Building Code of Australia, facilities for the use of the disabled shall be provided as specified in Part F2.4 of the Building Code of Australia and shall be constructed to the requirements of Australian Standard AS1428.1.*
75. *All new residential dwellings (and extensions comprising over 50% of the original floor area) are to fully comply with Councils Energy Smart Housing Policy (DCP39). In order to comply with DCP39 consideration must be given to the building envelope, orientation, insulation, ventilation, thermal mass, zoning, and hot water supply.*
76. *Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:*
- a. *internal drainage, prior to slab preparation;*
 - b. *water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;*
 - c. *external drainage prior to backfilling.*
 - d. *completion of work.*
77. A. *A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.*
- B. *The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.*
78. *An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.*
79. *Area below the spa is to be graded, drained and ventilated.*
80. *Where two (2) or more premises are connected by means of a single house service pipe, the owner of each premises must (unless all the premises are occupied by a single household or firm as a residence or place of business) ensure that a separate water meter, of a class and size approved by Council, is installed on each of those premises.*
81. *Yard gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.*
82. *In the event that Council is not utilised as the inspection/Certifying authority, within seven (7) days of building works commencing on the site a Compliance Certificate in the prescribed form is to be submitted to Council together with the prescribed fee, by the nominated principal certifying authority to certify the following:*
- i. *All required erosion and sedimentation control devices have been installed and are operational.*
 - ii. *Required toilet facilities have been provided on the site.*
 - iii. *A sign has been erected on the site identifying:*
 - *Lot number*
 - *Builder*
 - *Phone number of builder or person responsible for site.*
 - iv. *All conditions of consent required to be complied with prior to work commencing on the site have been satisfied.*

Orders of the Day

- v. *That the licensee has complied with the provisions of Section 98(1)(b) of the Environmental Planning and Assessment Amendment Regulations 2000.*

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

83. *Submission of a further Development Application(s) for the first use of the shops and professional suites, such to be approved by Council prior to their use or occupation.*
84. *Prior to the issue of the Occupation Certificate, the car parking and footpath area in front of the shops from the edge of the roofline of the awning to be dedicated as public road at no cost to Council.*
85. *In the event that Council is not utilised as the inspection/certifying authority, prior to occupation of the building a Compliance Certificate in the prescribed form is to be submitted to Council from the nominated principal certifying authority, together with the prescribed fee, to certify that all work has been completed in accordance with the approved plans and specifications, conditions of Consent and the relevant provisions of the Building Code of Australia.*
86. *A person must not commence occupation or use of the whole or any part of a new building (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).*
87. *The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.*
88. *On completion of work a certificate signed by a practicing structural engineer is to be submitted to the PCA to certify the structural adequacy of the structure.*

USE

89. *The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.*
90. *No items or goods are to be stored or displayed outside the confines of the premises.*
91. *All loading/unloading to take place within the boundary of the subject property.*
92. *Lighting shall not be permitted to impact upon the amenity of any other premises.*
93. *The premises shall be maintained in a clean and tidy condition at all times. Garbage storage and collection shall be carried out to the satisfaction of the Director Environment and Community Services.*
94. *The number size and collection location of waste bins shall be conducted to the satisfaction of the Director Environment and Community Services and shall not adversely impact upon the amenity of any premises.*
95. *No footpath Dining activities are to occur unless a footpath dining agreement has been submitted to and approved by Council.*

be rescinded."

Orders of the Day

2. Notice of Motion - Cr Lawrie

Banora Point Community Centre

Greenbank Pre-School; Banora Point Community Centre; DA1393/320 Pt2; LN 42906; Notice of Motion

That Council clearly directs staff regarding the unanimous resolution in (i) below, that the Banora Point Community Centre is to include a child care facility in the planning and construction of the building, in view of the following:

- (i) unanimous resolution on 19 March 2003 that Council endorses the preparation fo detailed plans for a Community Centre at Banora Point based on the Basic Option “plus” extensions to either side at a currently estimated cost of \$1.5m, it being noted in the Business Papers that the “future extensions” were “within the available budget”.
 - (ii) Tweed Link article in Issue 314 (15 April 2003) headed “Clarification” correcting article in 311 about “potential” extensions confirming Council has endorsed a “405m²” Centre “plus” extensions to either side at a currently estimated cost of \$1.5m.
 - (iii) accordingly to undated letter from Tweed Heads Community Pre-School Inc to Cr Lawrie received 7 July 2003, staff member Robin Spragg advised the Pre-Schools DOCS Advisory on 2 July 2003 the Pre-School would be in “future planning as more funds became available”.
 - (iv) letter to Cr Lawrie dated 30 July 2003 from Robin Spragg, signed by Douglas Jardine that the Pre-School has been “deferred, with the option to add it later in the planned position when funding can be found”.
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Orders of the Day

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